

U**HANDLING COMPLAINTS**

U.1 The Comhairle's complaints procedure

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Appendix U1: CNES Note for staff on implementing the Comhairle's Complaints procedure

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U. HANDLING COMPLAINTS

Source	Description	Reference
CNES Intranet	Complaints	CNES Intranet site, A-Z, complaints

U.1 THE COMHAIRLE'S COMPLAINTS PROCEDURE

U.1.1 The Comhairle's Complaints procedure is set out at Appendix U.1 and on the Comhairle's Intranet site. The contents of Appendix U.1 are contained in a formal complaints leaflet of which all schools should carry a small stock. Any schools requiring additional leaflets should contact the Educational Resources Service to obtain.

U.2 IMPLEMENTING THE COMPLAINTS PROCEDURE

U.2.1 The Comhairle's "Notes for Staff" on implementing the complaints procedure are set out at Appendix U.2 and on the Comhairle's Intranet site.

U.2.2 Schools should note that all complaints about incidents in schools should be dealt with by school management unless the complaint is about the conduct of the Headteacher.

THE COMHAIRLE'S COMPLAINTS PROCEDURE

INTRODUCTION

The Comhairle is committed to delivering high quality best value services for the people of the Western Isles; however, even in the best-run organisations things sometimes go wrong. The Comhairle's Complaints Procedure provides a framework through which your grievances or criticisms can be resolved and your views on our services can be taken into account.

There are two types of complaint:

1. An **informal** or minor issue where you request an improvement in the way a service is delivered and the Comhairle responds to address your request
2. A **formal** complaint where you have either asked for an improvement and are not satisfied with the Comhairle's response or wish to register a serious complaint.

You can make a formal complaint at any time.

Please let us know if:

- you think that we have done something wrong
- you think that we have not done something we should have done
- you think that you have been treated unfairly

We would like to know, because:

- if we have been at fault, we would like to put things right and make sure it doesn't happen again
- if we have not been at fault, we will make sure you get a full explanation

To make a formal complaint, you can do so in person at any of our local offices, by phoning us, by sending us an e-mail or by completing the form on our web site. We will acknowledge your complaint within 3 working days.

WHAT TYPE OF COMPLAINT IS COVERED BY THIS PROCEDURE?

This procedure covers formal complaints within the following definition:

“an expression of dissatisfaction, about the Standard of Service received, actions or lack of action by the Council, affecting an individual customer or group of customers following a request for improvement.”

This Complaints Procedure does not cover:

- explanations of Council Policy
- matters for which there is a right of appeal to for example a school transport decision, to an independent tribunal or other legal remedy
- a complaint about a service that is provided by the Social Work Department. There is a separate Complaints Procedure for that Department. Further information on the Social Work Complaints

Procedure are available from the Director of Social Work, Council Offices, Sandwick Road, Stornoway, Isle of Lewis, HS1 2BW (Tel: 01851 709331) (e-mail: msmith@cne-siar.gov.uk).

WHAT DO I DO IF I AM DISSATISFIED WITH THE SERVICE PROVIDED BY THE COUNCIL?

In the first instance you should see if your complaint can be resolved informally to your satisfaction. If you are still dissatisfied with the service you have received from the Comhairle you can make a formal complaint under the Comhairle's Complaints Procedure. The Head of Strategy (Internal) will be pleased to offer advice to help you pursue your complaint.

WHAT HAPPENS WHEN I MAKE A FORMAL COMPLAINT?

Complaints are usually better resolved if they can be dealt with at the time of the incident and by staff providing the service. The process will be as follows:

- (1) You can contact the manager of the service about your complaint. For complaints about schools this should be the Headteacher or his/her Depute (where applicable)

Or:

Complete the complaints form and return it to the Department providing the service. Alternatively you can write a letter of complaint (or an e-mail) giving us all the details. If you are not sure which Department of the Council was responsible for the service you want to complain about, you can address your complaint to the Chief Executive, at Comhairle nan Eilean Siar, Council Offices, Sandwick Road, Stornoway, HS1 2BW. e-mail: bhowat@cne-siar.gov.uk

- (2) The officer will listen and will take a note of any information that you give.
- (3) You can submit your complaint in writing and this can be written by you, a friend or relative or another person on your behalf.
- (4) Your complaint will be recorded and you will be asked to confirm that this record correctly reflects your complaint.

HOW WILL MY COMPLAINT BE DEALT WITH?

- (1) The Officer dealing with your complaint will acknowledge your complaint within three working days of receipt.
- (2) A Senior Manager in the Department or the Headteacher of a school will fully investigate your complaint in confidence.
- (3) During the investigation, further information may be sought from you about the complaint. If this is a face to face meeting you can take along a person of your choice if you want to have someone with you.
- (4) We will let you know the outcome of your complaint within 21 calendar days starting from the date your complaint is received. You will be invited to discuss the outcome if you so wish. If a decision cannot be given within 21 days you will be informed of the reasons for any delay.
- (5) We will notify you of the outcome of your complaint through the post by recorded delivery unless you have requested correspondence by e-mail. Details of the appeal process will be included.

WHAT DO I DO IF I AM STILL NOT HAPPY?

- (1) If you are not satisfied with the decision you can appeal in writing to the Chief Executive within 28 days of the receipt of the decision on your complaint.
- (2) The Chief Executive will send you an acknowledgement of your appeal within three working days of receipt.
- (3) The Chief Executive will examine all the previous papers held by the Department on your case and will then investigate your complaint.
- (4) You will also be given the opportunity to attend a meeting with the Chief Executive (or other Senior Officer within the Chief Executive's Office) to discuss your complaint, with 14 days of receiving the complaint, or as soon as practicable.

- (5) The Chief Executive will make his decision in writing to you as soon as it is reasonably practicable, after the meeting.
- (6) If "reasonably practicable" exceeds 21 days from the date of receiving your complaint, the Chief Executive will write to you explaining the reasons for the delay and indicate when the response is likely to be issued.
- (7) If you are not satisfied with, the Chief Executive's decision, you may have a right of appeal to a Review Committee composed of Councillors. The Chief Executive will give you information on any such appeal.
- (8) If you are still not satisfied with the Council's decision you can refer your complaint to the Scottish Public Services Ombudsman. A copy of the Ombudsman's Complaint Form is available from the Council Offices at Sandwick Road, Stornoway, Tarbert, Balivanich and Castlebay.

Note: All complaints will be investigated and dealt with in strict confidence. However; to enable the Comhairle's procedure to be adequately monitored and revised, if necessary, some statistical information about complaints received by the Council may be published on an annual basis. No details of individual complaints will be revealed as part of this monitoring process.

WHEN SHOULD I REFER MY COMPLAINT TO THE OMBUDSMAN?

If you are not happy with the outcome of the appeal then you can refer your complaint to the Scottish Public Services Ombudsman. The Scottish Public Services Ombudsman Act 2002 confers the right to make a complaint to the Ombudsman. You may wish to contact the Scottish Public Services Ombudsman, 4 Melville Street, Edinburgh, EH3 7NS, Telephone, 0870 011 5378, Fax 0870 011 5379, Email enquiries@scottishombudsman.org.uk Internet web address

<http://www.scottishombudsman.org.uk/>.

The Ombudsman can consider complaints about poor service; failure to provide a service; administrative failure but will expect you to have taken up your complaint with the Comhairle first before they will look at your complaint. Generally, you have to send your complaint to the Ombudsman within a year of the event that related to your complaint or from when you found out about the matter. They can sometimes extend the time limit, but only if there are special reasons.

NOTE FOR STAFF ON IMPLEMENTING THE COMHAIRLE'S¹ COMPLAINTS PROCEDURE

INTRODUCTION

The Comhairle wants to provide the best services possible while at the same time providing value for money. It is important for us to know whether the services we provide meet our customers' needs. **Complaints are not a nuisance or an embarrassment but are a source of valuable feedback and help us to improve our services and satisfy our customers.**

This Note is designed to give all staff guidance on how to deal with Complaints that may be made, under the Complaints Procedure, concerning any activity of the Comhairle or its employees. Under the Citizen's Charter all Councils are required to adopt a Complaints Procedure. The Comhairle adopted a Procedure in August 1993 and copies of the Procedure Leaflet have been made available at all Offices and other Comhairle establishments. Copies of the Leaflet are to be made available to anyone who wants to make a complaint or requests information or advice on how to complain. The current procedure covers all complaints except social work cases (which are dealt with by a different procedure)

WHAT ARE COMPLAINTS?

Complaints are problems that arise because of the way a service was, or was not, delivered. They are not routine enquiries or reports about a service, nor are they requests for a service. A complaint is hard to define but easy to recognise. It may range from a complaint about the Comhairle's work to an allegation against an individual. A complaint is defined in the procedure as:

"an expression of dissatisfaction, about the standard of service, action or lack of action by the Comhairle, affecting an individual customer or group of customers".

There are routine complaints that can be dealt with at the first point of contact or more serious ones that need investigation by senior staff members.

CATEGORIES

Complaints fall into the following categories:-

- Dissatisfaction with the service provided, including failure to achieve specific standards of service, where applicable.
- Delays in responding.
- Employee attitude.
- Dissatisfaction with the way the Comhairle has reached its decision, or with the action taken in reaching that decision.

OPERATIONAL CONSIDERATIONS²

Departments should have given some thought to the most appropriate level at which formal complaints should be investigated. That there should be no fixed rule in relation to this as individual cases will vary. However, it would not be appropriate for the person nominated to act as an investigating officer, for example, to investigate complaints that may be made directly against themselves. Each Department should have nominated an officer who will be responsible for implementation of the Complaints Procedure within the Department

It should be a general rule that the final outcome of the investigation into complaints lodged by members of the public should be signed by the Head of Service, on being satisfied that the matter has been thoroughly investigated and the course of action fully agreed.

If possible, it should be the general practice that complainants are given the opportunity to be interviewed either at the Comhairle Offices or, if preferred by the complainant, at home. The complainant should be given the opportunity to have someone with them in the course of these investigations. However, the Health and Safety of staff should always be considered when dealing with members of the public in potentially difficult circumstances. All staff and managers should be aware of the Comhairle's Violence and Aggression at Work Policy (<http://187.187.1.6/corporate/personnel/violpol.doc>) and should take steps to ensure their own safety and those of others.

¹ Social Work Department has its own Complaints Procedure. This procedure invites clients who "are dissatisfied with any aspect of the Social Work Department and have not been able to resolve the problem to their own satisfaction" to use the procedure. It is very similar to the Comhairle's procedure but differs at the Appeal stage. Any appeals go straight to the Social Work Complaints Review Panel whose function is "to consider and determine under delegation appeals lodged against the response of the Director of Social Work in respect of any complaint determined in terms of the Social Work Complaints procedure".

² Some of our customers may have disabilities but are entitled to be treated in the same way as everyone else – see further information towards the end of this document.

DEPARTMENTAL REGISTER

A register should be maintained within each establishment of your Department so that complaints submitted in writing can be recorded.

The nominated Departmental officer will also be responsible for ensuring that the register is maintained and for monitoring complaints received by the Department on a regular basis. All complaints are to be entered in a Register (which could be done electronically - but remember to register it for Data Protection) to be kept by each Comhairle Department to monitor the level and progress of complaints.

A Register to record complaints should be kept in all appropriate premises, as identified by each Department. A formal register is necessary for two main reasons.

- complaints recorded in general files would be virtually impossible to extract for analysis purposes.
- monitoring of complaints on a regular basis is one of the most important elements of the procedure.

APPEALS

The complainant has the right of appeal to the Chief Executive once the complaint has been investigated and the complainant has been informed of the outcome. The Chief Executive will conduct an investigation into the Complaint and examine all the papers held by the Department on the case. The Chief Executive may also interview staff involved in the case.

The Complainant will be given the opportunity to attend a meeting with the Chief Executive to discuss the matter within 14 working days of receiving the appeal, or as soon as practicable.

The Chief Executive will notify the complainant of the decision, if possible, within 21 days of receiving the letter of appeal.

COMPLAINT VIA A COMHAIRLE MEMBER

If a Comhairle Member receives a complaint, they may ask an officer to deal with it on their behalf. They should be kept advised of the action taken on the complaint and receive copies of all correspondence.

If a Member wishes to reply in person to a complaint the aim should be to give them the necessary information within five working days of receipt of the complaint. Any individual Member who receives a request from a member of the public for a complaint to be referred to the Commissioner for Local Administration in Scotland (the Ombudsman) is recommended to pass the details to the Chief Executive in order that any necessary investigation and reply by the Comhairle can be arranged and based on sound information. In appropriate circumstances, the relevant Committee may consider the complaint and establish whether there are any steps that should be taken to rectify the matter.

APPEALS REVIEW COMMITTEE

If the Complainant is still not satisfied with the Chief Executive's decision, there is a right of appeal to the Standards and Scrutiny Committee. The procedure for referring cases to the Committee, is available from Corporate Services.

GENERAL GUIDANCE FOR ALL STAFF

Neglect, bias, wrong information, unfairness, incompetence, excessive delay or faulty statements can amount to maladministration and could lead to more time and trouble having to be taken at a later date.

Complaints should be dealt with as close as possible to the source of the complaint. Wherever possible this should be undertaken by the individual member of staff receiving the complaint who should try to resolve the matter to the satisfaction of the customer.

Consider whether the circumstances are serious enough to warrant reporting the matter to a senior officer, and the Head of Department.

In all cases where breaches of the law, serious misconduct, maladministration, injustice or corrupt practices are evident, the Chief Executive and the Comhairle's Monitoring Officer must be informed **IMMEDIATELY**.

Complaints may be received which could lead to legal proceedings being taken against the Comhairle – e.g. injury caused to a member of the public on Comhairle property, etc. Such cases should be referred to the Chief Executive or Director of Corporate Services immediately and not responded to, except by acknowledgement, by the Department receiving them.

If you receive a complaint which you cannot remedy yourself, or if the complainant is still dissatisfied, or does not wish to have the complaint dealt with locally, refer the matter to a more senior officer.

If it is considered that the complaint is justified, one or more of the following courses of action should be taken:

- (a) With the approval of your line manager apologise to the complainant and indicate what steps are being taken to rectify the situation.
- (b) Take steps to prevent similar circumstances recurring in the future, or make recommendations regarding the revision of procedures or practices.
- (c) Keep the complainant informed of their complaint's progress.

COMPLAINTS BY TELEPHONE OR IN PERSON

The following points should be followed in actioning complaints by telephone, or in person:-

- (a) Be polite and helpful at all times - try to remember how you would like to be dealt with.
- (b) Make a simple record of what is said and take a note of the date, name, address and telephone number of the caller. Enter details of the complaint in the Departmental Register, and if possible get the Complainant to sign the Register.
- (c) If you are not able to deal with the complaint, transfer the individual to the correct person, but ensure that you are transferring them correctly - not merely passing them from one Department to another.
- (d) If you do not know the answer - say so. Find out and carry out any promise given to the caller. If you said that you or someone else would ring back, remember to do so or make it clear to any other member of staff what you have promised.
- (e) If a caller is rude or unduly persistent, or you are not able to deal with the problem, then find a more senior member of staff to deal with the problem.

COMPLAINTS IN WRITING (i.e. Letter, e-mail or Complaints Form)

The following points should be followed in dealing with written complaints:-

- (a) Ensure that the person who is responsible for dealing with the subject matter is given the communication promptly.
- (b) Indicate if any action has already been taken - such as an acknowledgement.
- (c) Reply to all communications, even if only in the form of an acknowledgement. Any acknowledgement must be sent within three working days of receipt.
- (d) Inform the individual of what is currently happening to their communication, particularly if the matter requires some research or investigation. The overall aim should be to reply in full within twenty one days. Where this is not possible inform the complainant of the reasons for the delay.
- (e) During the investigation the complainant must be given the opportunity to be accompanied by a person of his/her choice, when further information is being sought about the complaint.
- (f) Notification of the outcome of the complaint shall be sent by recorded delivery.
- (g) In notifying the complainant of the outcome of the investigation the opportunity should be given to the complainant to discuss the outcome, if desired.

APPEALS AGAINST THE OUTCOME

If the Complainant is not satisfied with the decision on the complaint, an appeal can be made in writing to the Chief Executive. The Chief Executive will acknowledge receipt of the appeal within 3 working days of receipt of the appeal.

PUBLICISING THE SYSTEM

Copies of the Comhairle's leaflet "Complaints Procedure" and "The Scottish Public Services Ombudsman" leaflet (published by the Commissioner for Local Administration in Scotland (the Ombudsman)) - should be on display in all Comhairle premises and Citizens Advice Bureaux. The web address for the Ombudsman is <http://www.scottishombudsman.org.uk/> (phone: 0870 011 5378) where you will find the same information as in the leaflet.

FINALLY, ALWAYS REMEMBER THAT THE REPUTATION OF THE COMHAIRLE DEPENDS ON YOU.

HOW TO TREAT CUSTOMERS AND STAFF WITH PHYSICAL DIFFICULTIES

We all want to treat disabled complainants and customers the same way as everyone else but sometimes we can be uncertain about how to go about it.

The Disability Discrimination Act 1995 places duties upon us not to discriminate consciously or unconsciously against disabled people. As a first step to ensuring discrimination does not occur you may find the following suggestions useful:

- Remember that disabled people are individuals just like everybody else. Be careful not to make assumptions about their abilities or needs, and consider that some disabilities are not obvious such as epilepsy or mental illness.
- If you are not sure how something might affect a disabled person do not be afraid to ask them for advice.

Communication

- If a disabled person is with someone, talk to the disabled person rather than to the person who is with them.
- When talking to a deaf person, find out - in writing if necessary - whether they lip read. If they do, make sure your face is in the light, look directly at the person and speak clearly and naturally.
- When you first meet a blind person, introduce yourself. When you are going to move away, tell them. Do not leave them talking to an empty space.
- When you are talking to someone with a speech impairment, concentrate on what is being said, be patient and do not try to guess what they want to say. If you do not understand, do not pretend you do.
- If someone has difficulty understanding you - perhaps because they have a learning disability or perhaps are deaf - be patient and be prepared to explain something more than once. Try to use simple language.
- When talking to a wheelchair user, try to ensure your eyes are at the same level as theirs, perhaps by sitting down. Do not lean on the wheelchair - it's part of the user's personal space.
- Avoid asking personal questions about a person's disability. Although an employer could ask "Does your disability affect your ability to do this job?".
- If someone looks "different", avoid staring, try to make eye contact and concentrate on what they are saying, not on the way they look.

Remember if you are talking to an adult treat them like an adult.

ASSISTANCE

- If someone looks as if they need assistance, offer it, but wait for them to accept before you help.
- When guiding a blind person do not push or pull them. Ask if they would like to take hold of your arm. If there are steps tell them whether the steps go up or down.
- Remember that guide dogs, be it for deaf or blind people, are working dogs, not pets. They should not be fed, patted or distracted while they are working.

Above all put yourself in the disabled person's place.

Most of the above points are just good manners.

LANGUAGE

- Some of the words and phrases we use can offend disabled people because they suggest that the disabled person is dependent or helpless. Some words such as "cripple" or "retarded" are abusive. Below are some common words to avoid, with suggested alternatives:
- Do not say "the disabled"; use "disabled people" or "people with disabilities".
- Do not say "suffering from", "crippled by" or "a victim of"; use "a person who has" or "a person with".
- Do not say "deaf and dumb"; use "deaf without speech".
- Do not say "epileptic"; use "a person with epilepsy".
- Do not say "spastic"; use "a person with cerebral palsy".
- Do not say "mentally handicapped"; use "a person with a learning disability".
- Do not say "confined to a wheelchair" or "wheelchair bound"; use "wheelchair user".

REMEMBER, be sensitive but not patronising. Treat disabled people as you would expect to be treated yourself.