

London Borough of Havering

# Complaints and Compliments Policy and Procedures 2023

Complaints and Compliments Policy and Procedure includes procedures for Social Care complaints, Housing complaints and Data Protection complaints

Jodie Gutteridge  
7 June 2023

## Document Control

### Sign off and ownership details

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## Equality & Health Impact Assessment record

1	Title of activity	<i>Complaints and compliments policy and procedures 2023</i>		
2	Type of activity	<i>Renewed policy on complaints and the acceptance of compliments</i>		
3	Scope of activity	<i>Complaints and compliments policy, which will include guidance for staff and complainants on social care complaints, housing complaints and Access to Information requests</i>		
4a	Are you changing, introducing a new, or removing a service, policy, strategy or function?	Yes	If the answer to <u>any</u> of these questions is ' <b>YES</b> ', please continue to question <b>5</b> .	If the answer to <u>all</u> of the questions (4a, 4b & 4c) is ' <b>NO</b> ', please go to question <b>6</b> .
4b	Does this activity have the potential to impact (either positively or negatively) upon people (9 protected characteristics)?	Yes		
4c	Does the activity have the potential to impact (either positively or negatively) upon any factors which determine people's health and wellbeing?	Yes		
5	If you answered YES:	<b>Please complete the EqHIA in Section 2 of this document.</b> Please see Appendix 1 for Guidance.		
6	If you answered NO: ( <i>Please provide a clear and robust explanation on why your activity does not require an EqHIA. This is essential in case the activity is challenged under the Equality Act 2010.</i> )  <i>Please keep this checklist for your audit trail.</i>			

Date	Completed by	Review date
<b>7<sup>th</sup> June 2023</b>	<b>Jodie Gutteridge</b>	<b>July 2024</b>

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## Introduction

The Council defines a complaint as “***an expression of dissatisfaction, however made, about the Council’s provision of, or failure to provide, a service for which it has responsibility, the action or lack of action by the Council, its own staff, or those acting on its behalf, affecting an individual resident or group of residents and when it has not been put right in a reasonable timescale.***” Havering Council provides a wide range of services to many people, and we aim to deliver these services to the highest possible standards. Your complaints and concerns and compliments are important to us.

This policy is aimed at anyone who is dissatisfied with any services delivered by the Council and is considering contacting us seeking a viable solution, as well as those who would like to praise or provide positive recognition for a job that you feel we have done well.

## Purpose

Our right first-time approach to complaints is driven by the [Council’s Vision](#) “The Havering you want to be part of” and focusing on “things that are important to our residents” and making sure Havering is “a great place to live, work and enjoy”.

We pride ourselves on treating everyone fairly no matter the circumstances and we are keen to understand our customers’ experiences of the services we deliver to all our residents and use learning to improve any identified service failures.

This policy supersedes:

- The Corporate Complaint Policy and Procedure.
- Vexatious Complaints.
- Adult Social Care Complaints and Compliments Policy.
- Children and Young People’s Complaint Procedure.

We have also included a guide to Member’s enquiries and Freedom of Information requests to ensure all processes are aligned.

## Policy summary

### Scope

Our complaint process has been tailored to accommodate all (statutory and corporate) complaints to ensure a clear consistent approach across all areas of the organisation, which will be more efficient and easier to communicate. This process will allow us to determine each complaint on its own merits. We will investigate all complaints to allow us to identify any service failures, and will review all compliments, which in turn will allow us to act on learning opportunities, ensuring the lessons learnt, both good and bad, reach those officers in the Council who can affect change.

A good complaints process will comply with the law (statutory complaints). Those which are non-statutory complaints are addressed in this policy under the corporate complaints process.

The Council will seek to resolve complaints at the earliest opportunity. Where possible, every attempt will be made to deal with the issues quickly. Some complaints received by the Council have to be dealt with under a statutory process and our complaints policy will set out the difference between statutory and corporate complaints. However, there are a few instances

where some services will have their own appeals processes, so are not included in this process. These include:

- Penalty Charge Notices (PCNs).
- Appeals against planning applications and planning enforcement.
- Council Tax enforcement.
- School appeals (including transport to schools).
- Housing appeals.
- Matters where legal action has commenced or where there is a separate appeals procedure.

The attached procedures (Appendices 1-4) sets out how the Council will deal with any complaint coming into the Council including the necessary timescales set to investigate and respond to all complaints.

The Customer Insight, Information and Investigations Team are also responsible for access to information requests which do not fall within the scope of this policy. Freedom of Information (FOI) requests, Environmental Information Regulations (EIR) and Individual Rights Request, including Rights to Erasure and Rights to Rectification, are overseen by the Information Commissioner. Havering Council abides by their statutory guidelines and timescales.

## Legislation

This policy adheres to the following legislation:

- The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- Section 26 Children Act 1989.
- The Children Act 1989 Representations Procedure (England) Regulations 2006.
- Freedom of Information Act 2000.
- UK GDPR and Data Protection Act 2018.
- Re-Use of Public Sector Information Regulations 2005.
- Environmental Information Regulations 2004.
- Human Rights Act 1998.
- Equality Act 2010.
- Localism Act 2011.
- Social Housing (Regulations) Bill.
- DWP Regulations.

## Timescales

This Policy will apply from 1 November 2023 onwards. It will be subject to a review periodically to reflect any changes in legislation or Council practice.

## Aims, objectives and outcomes

We take General Data Protection Regulations (GDPR) seriously and will not use your information for anything other than for the purpose in which it was intended to be used. We treat all complaints the same and will ensure we investigate each part of the complaint robustly and consider our findings properly.

We ensure that our procedures are simple, to guarantee our customers know where and how to complain and have easy access to our complaints system.

Our objectives to handling our complaints are to adhere to our six key principles of complaint handling:

1. **Start off right** by providing a simple and time bound complaint process.
2. **Fix it early** through acknowledging mistakes and resolve complaints early.
3. **Focus on what matters** and put the complainant at the heart of the process.
4. **Be fair** by providing impartial and objective complaint handling.
5. **Be honest**, open, accountable and provide clear reasons for decisions.
6. **Learn and improve** through regularly reviewing and measuring the satisfaction of our complainants and the complaint procedure.

## Policy

The Council defines a complaint as “***an expression of dissatisfaction about the Council’s provision of, or failure to provide, a service for which it has responsibility and when it has not put right any service failure in a reasonable timescale.***”

The Council defines a compliment as “an expression of satisfaction, positive recognition or praise for a service, team or individual officer.”

We accept feedback through all means including:

- Our online forms.
- Our call centre (01708 434343).
- By post (Town Hall, Main Road, Romford. RM1 3BD).
- In person through visiting and talking to a member of staff at any of our libraries.
- By email (details available on the website).

We will review all complaints and determine which of the following complaints types your complaint falls under:

- Corporate Complaint - If a complaint does not fall under a statutory process then it is for us to determine how to respond to the complaint. Further information on the process is outlined in appendix 1.
- Statutory Complaint - The way we deal with complaints relating to Children’s and Adult Social Care services, and now any complaints relating to our housing stock, is set down by legislation. As a result, the process and timelines for dealing with complaints may vary dependent upon the type of complaint being made. Please refer to appendix 2.
- Data Protection Complaint - The way we deal with complaints relating to how we handle your personal information is outlined under data protection legislation. As a result, where a complaint relates to data protection matters, for example complaints in relation to Subject Access Requests, this will not be dealt with under the Council’s Corporate Complaint process. Your complaint will be reviewed and responded to by the Customer Insight, Information and Investigations team. Should your matter not be dealt with satisfactorily there is the opportunity to appeal to the Information Commissioner’s Office (ICO). Where a complaint covers more than one area, if there is a data protection element to your complaint, this will be investigated separately from your main complaint. Please refer to appendix 3.
- Members’ Enquiries – Councillors and MPs are able to make enquiries and complaints on behalf of one of their constituents, however, if a resident has already raised a complaint the councillor will not be able to also raise the same complaint on behalf of the resident, and vice versa.

For all complaints, we will provide complainants with an acknowledgement, conduct a full and thorough investigation and try to resolve your issue at the first point of contact.

We will maintain the confidentiality of all personal information and will not disclose it outside Havering Council without your permission unless we are legally obliged to do so. However, if we are informed of anything that makes us think that an individual is unsafe or at risk of being harmed, we will pass this on to the appropriate authority or service for action.

When someone has suffered an injustice, we try to put them back in the position they would have been had that error not occurred. Our focus is on restoring services that have been denied and taking practical steps to put things right. Where that isn't possible, we will try to think of creative remedies that acknowledge the impact of faults. We look at the injustice that has occurred and then use the [Local Government and Social care Ombudsman guidance on remedies](#) to objectively decide what is an appropriate remedy for that injustice. For more information on the remedies Havering Council offer please see [Appendix 4](#).

### What are the differences between complaints?

Havering Council welcomes feedback on their performance and uses this to improve our services. If you have experienced an unsatisfactory service from Havering Council and are considering contacting us to seek a viable solution, then please note that our employees can resolve most issues of dissatisfaction as part of their job without the need for you to make a formal complaint.

However, if you still encounter a problem after reporting an issue or if you have reported it a number of times without resolution or you are dissatisfied with the service you received when reporting it, then you are able to make a **formal complaint** through our complaints process.

As identified above, a **statutory complaint** relates to the services received from Children's and Adults Social Care, and now any complaints related to housing matters (inc. repairs, Anti-Social Behaviour (ASB) and homelessness), whereas a **Corporate Complaint** relates to all other services provided by Havering Council. A **Data Protection complaint** refers to complaints regarding the handling or use of your data.

### What is the difference between a complaint and member enquiry?

A Member's Enquiry is ***"a request for information, the clarification of circumstances or further information for a particular situation or constituent, or the notification of dissatisfaction with a service."***

Councillors and MPs are able to enquire or make a complaint on behalf of their constituents, at their request, through the usual complaint process. However, if a resident has already logged a complaint, we will not be able to accept a duplicate complaint on their behalf through a councillor /MP. If the councillor/MP would like to follow up on the progress or outcomes of a complaint that a constituent has already raised, this will be treated as a member's enquiry and would need to follow the relevant complaint process.

Any councillor/MP involvement will follow the same processes outlined in this policy.

Please note: that councillors/MPs will respond to any constituent enquiry submitted. If the enquiry results in a complaint being raised directly with the Council the complaint will then follow the processes outlined in this policy where the relevant timescales will apply.



## Who can complain

For our **corporate complaint process**, anyone can complain who uses, has used or is affected by the services we provide.

For our statutory complaints process, you can complain if you:

- Receive or have received a service from Havering Adult Social Care.
- Are acting on behalf of a service user (with their consent).
- Are acting on behalf of a service user who has died, or is unable to make a complaint due to, physical incapacity or lacks capacity within the meaning of the Mental Capacity Act 2005 and who is acting in their best interest and the service user has not previously indicated that they did not want that person representing them before they died/lost capacity.
- A child or young person and a parent or someone with parental responsibility for a child/young person who is either looked after by the local authority or is a child in need.
- A child or young person, or an individual involved in fostering, adoption or Special Guardianship arrangements.
- A care leaver to the Local Authority about services under the Children Act.
- Someone acting on behalf of a child or young person who the local authority considers has sufficient interest in the child and whose views the Council consider to be relevant. Consent and views will be sought from the child where appropriate.
- Someone who is acting on behalf of a child or young person who is unable to make a complaint due to:
  - lacking capacity within the meaning of the Mental Capacity Act 2005 and who is deemed to be acting in their best interest.
- An adult relating to a child or young person but not on behalf of the child or young person. The local authority will determine if there is sufficient interest in the child's welfare and seek the child or young person's consent where appropriate.
- A tenant/or anyone living in a property which the Council owns or manages.

## Please note that

1. Anonymous complaints, where enough information is provided to be able to investigate, will be recorded and considered by the Complaints Manager and/or relevant service area manager, where appropriate, but **no response will be provided**.
2. The Council **will not usually** consider complaints raised where the subject matter is being considered in legal proceedings such as care, adoption, special guardianship and disrepair proceedings. The Complaints Manager will decide after taking legal advice whether the complaint can be taken under the statutory procedure.
3. The Council does not need to consider complaints made **more than one year** after the grounds to make the representation arose. However, the Council reserves the right to extend the time limit if it is still possible to consider the representations effectively. In these cases, decisions will be made on a case by case basis.
4. Councillors/MPs should not email officers directly as there will be no record of the request coming through, these should be logged through the usual complaint processes.
5. Members are not automatically entitled to sensitive/personal information, i.e. social care support plans or personal health data.
6. Information given to a councillor must only be used for the purpose for which it was requested.

## Vexatious complaints

Some customers place unreasonable demands on the Council by submitting multiple, sometimes repetitive or occasionally abusive requests, these contacts dominate our staffs' attention.

As a Council we do not view behaviour as unacceptable just because a claimant is forceful or determined. We understand that some complainants are upset and angry about the issues they have raised, however the actions of complainants who are aggressive, demanding, persistent or continually rude may result in unreasonable demands on the Council and unacceptable behaviour towards the Council's staff.

When this happens, we have to take action to protect the health and wellbeing of our staff, who have the right to do their jobs without fear of being abused or harassed. In these circumstances, the Council will start by explaining why we feel the behaviour is inappropriate and ask that this is changed. If the behaviour continues, the Council has the right to make the decision to restrict contact with the complainant. On these occasions, the Council will send a refusal notice to the complainant specifying how the current individual complaint will be handled.

If we have restricted our contact with a claimant and they make a new complaint regarding a different matter, the Council will make a decision on a case by case basis whether or not to continue with any restrictions that have been put in place for the earlier complaint.

The Council refers to the Local Government and Social Care Ombudsman Unreasonable Complainant Behaviour and the Housing Ombudsman Unacceptable User Action Policy when we are faced with these situations.

### Support

We pride ourselves on treating everyone fairly, should you need help with the complaints process, either understanding of the policy or helping to raise a complaint, we will always try to find someone to support and assist you including organising any translation or interpreting services required.

The Council has a positive approach to complaints. The Council will provide assistance to people who have difficulty accessing or using the complaint form and provide alternative means of making a complaint when required.

Should you require any support or assistance with alternative methods of contact our staff are available to assist at any of our buildings, including our Libraries, or alternatively you could call our contact centre on 01708 434343 who will help you or transfer you to our Customer Insight, Information and Investigations Team.

## Ownership and authorisation

This policy has been written by the Corporate Policy and Performance Lead and is owned by the Director of Customer Services.

The policy was taken to Cabinet in July 2023, where it was formally agreed upon and a final copy was made available for publication.

The Council reserves the right to make amendments to this policy at short notice, or in any situation that warrants an immediate amendment being introduced.

## Appendix 1: Corporate Complaint Procedure

All complaints will come into the triage team who will identify which route the complaint will follow. We aim to contact you within three working days.

The Council has a two-stage Corporate Complaint procedure in place.

You can raise a complaint through our [online complaint form](#) in the first instance, however as per our complaint policy we pride ourselves on treating everyone fairly and offer alternative routes to log a complaint if required. This could be through calling our contact centre on 01708 434343 speaking to a member of staff directly or via email (email address available on the website).

### We will:

- Acknowledge your contact within **3 working days** detailing our understanding of your enquiry and the next steps.
- If progressed to Stage 1, we will thoroughly review and investigate your concerns and respond to you, aiming to get things right first time, within **10 working days**.
- Allow an additional **10 working days** for those complaints which require longer to investigate. In these instances, it will be agreed by both parties in advance.
- Address all points raised in the complaint and provide a clear reason for any decisions.
- Incorporate any additional complaints raised during the Stage 1 complaint, if relevant to the original complaint. Where the response has been issued or unreasonably delay the response, a new Stage 1 should be logged.
- Confirm in all responses:
  - The complaint stage and definition.
  - The decision (including the reasons) on the complaint.
  - Details of any remedy offered to put things right.
  - Details of any outstanding actions.
  - How to escalate to Stage 2 if the resident is not satisfied.
- For those complaints which progress to Stage 2, we will conduct a further thorough and proportionate investigation and provide a full, clear and honest response within **20 working days**.
- Should we identify that the investigation is more complex, we will allow a further **10 working days**. In these instances, it will be agreed by both parties in advance.
- Confirm in all responses:
  - The complaint stage and definition.
  - The decision (including the reasons) on the complaint.
  - Details of any remedy offered to put things right.
  - Details of any outstanding actions.
  - How to escalate to the Ombudsman if the resident is not satisfied.

When a complaint is made verbally, the officer will record the details of the complaint and the outcome the customer is seeking. If the officer is able to quickly resolve the complaint they should do so. Otherwise details of the complaint and the desired outcome should be agreed with the complainant and forwarded to the Customer Insight, Information and Investigations team, where they will triage the complaint, confirm the understanding of the issues raised and will immediately start the complaint process.

Sometimes complaints concern two or more service areas or departments. The Council will usually provide one co-ordinated response unless agreed otherwise.

The Council takes complaints about staff very seriously. Complaints about staff should be made directly to the Council and will be considered under the formal Corporate Complaints Policy. Where the complaint concerns an agency worker then the Council will coordinate any investigation with the relevant recruitment agency.

Once your complaint has completed the Council's complaints procedure, the Council cannot re-open a complaint which deals with the same matters.

The Customer Insight, Information and Investigations team will monitor performance in order to identify under performance and address any issues, identify any trends, ensure our customers are getting value for money.

### **Right to escalation**

The customer has the right to request the complaint be escalated if they remain dissatisfied. The customer will need to:

- a) indicate what they would like progress the complaint to Stage 2 with details of why they remain dissatisfied and indicate what they would like the Council to do to put the matter right.
- b) submit the response within 30 working days from the date of the full response.

If a customer continues to express their dissatisfaction, but does not provide specific reasons as to why they are not satisfied by the Council's response, in some circumstances the complaint will not be escalated to the next stage. This process is used to ensure that complaints are only escalated when necessary and not just because a complainant continues to express their dissatisfaction. For example, when a customer does not agree with the outcome of the complaint but can provide no further evidence to support their complaint. The decision on whether to escalate or not, is taken by the Team Manager in conjunction with the Director of Customer Services and the reasons for this will be explained clearly to the customer.

### **What happens if the complainant is still dissatisfied once they have been through our complaints process?**

If you remain dissatisfied following the review of your complaint, you will be informed of your right to refer the complaint to the Local Government and Social Care Ombudsman, who deal with complaints about a number of council services, including planning, social care, housing benefit, environment and waste, transport and highways, council tax and some education matters.

## Appendix 2 Housing / Social Landlord Complaints

Under the new Social Housing Bill, the Housing Ombudsman has a new power to issue [a code of practice](#) about the procedures members of the scheme should have in place for considering complaints against them. Havering Council adheres to, and follows this code when looking at complaints for housing/social landlords statutory complaints.

### What can complaints be about?

In general terms, anything related to the home you rent from the Council, your housing needs and duty to be housed by the Council. This includes but is not limited to:

- Repairs and maintenance of your home.
- Anti-social behaviour/tenancy issues.
- Housing Register.
- Homelessness.
- Sheltered Housing.

### What is the complaint process?

Complaints relating to Havering Council stock follow a two-stage process:

They will start at **Stage 1** and we will:

- Acknowledge your contact within **3 working days** detailing our understanding of your enquiry and the next steps.
- If progressed to Stage 1, we will thoroughly review and investigate your concerns and respond to you, aiming to get things right first time, within **7 working days**.
- Allow an additional **10 working days** for those complaints which require longer to investigate. In these instances, it will be agreed by both parties in advance.
- Address all points raised in the complaint and provide a clear reason for any decisions.
- Incorporate any additional complaints raised during the Stage 1 complaint, if relevant to the original complaint. Where the response has been issued or unreasonably delay the response, a new Stage 1 should be logged.
- Confirm in all responses:
  - The complaint stage and definition.
  - The decision (including the reasons) on the complaint.
  - Details of any remedy offered to put things right.
  - Details of any outstanding actions.
  - How to escalate to Stage 2 if the resident is not satisfied.

For **Stage 2** complaints, we will:

- Ensure that the person considering the complaint at Stage 2 is not the same person that considered/investigated the Stage 1 complaint, to ensure another independent investigation is undertaken at Stage 2.
- Respond to all Stage 2 complaints within **20 working days** of the complaint being escalated.
- Allow an additional 10 working days for those complaints which require longer to investigate. In these instances, it will be agreed by both parties in advance.

- Confirm in all responses:
  - The complaint stage and definition.
  - The decision (including the reasons) on the complaint.
  - Details of any remedy offered to put things right.
  - Details of any outstanding actions.
  - How to escalate to the Ombudsman if the resident is not satisfied.

## Right to escalation

The customer has the right to request the complaint be escalated if they remain dissatisfied. The customer will need to:

- a) indicate what they would like progress the complaint to Stage 2 with details of why they remain dissatisfied and indicate what they would like the Council to do to put the matter right.
- b) submit the response within 30 working days from the date of the full response.

Landlords must only escalate a complaint to Stage 2 once it has completed Stage 1 and at the request of the resident.

If all or part of the complaint is not resolved to the resident's satisfaction at Stage 1 it must be progressed to Stage 2 of the landlord's procedure, unless an exclusion ground now applies. Please note that we have the right to decline a Stage 2 if the grounds are reasonable.

In instances where a landlord declines to escalate a complaint it must clearly communicate in writing its reasons for not escalating as well as the resident's right to approach the Ombudsman about its decision

## Completion of local complaints process

If you/the resident remains dissatisfied with the response they/you can go direct to the Housing Ombudsman Service and they may be able to investigate how we dealt with the matter.

## About the Ombudsman

The contact details for the Housing Ombudsman Service are:

- Online complaint form: [www.housing-ombudsman.org.uk/residents/make-a-complaint/](http://www.housing-ombudsman.org.uk/residents/make-a-complaint/)
- Phone: 0300 111 3000
- Email: [info@housing-ombudsman.org.uk](mailto:info@housing-ombudsman.org.uk)
- Postal address: Housing Ombudsman Service, PO Box 152, Liverpool L33 7WQ

## Appendix 3: Statutory Complaint Procedure - Social Care

### Adult Social Care

If you are dissatisfied about a service, you have received from Adult Social Care we would welcome your feedback and will use this to improve both your experience of the service and how services can be improved in the future. Adult Social Care is committed to responding appropriately to complaints and will take appropriate steps to remedy service failures identified arising from complaints.

Where complaints do not show service failure, an explanation will be provided. Adult Social Care will regularly review the lessons learnt from complaints to improve the quality of the service provided.

#### What can complaints be about?

Anything related to Adult Social Care, such as:

- An unwelcome or disputed decision.
- Concern about the quality of a service.
- Delay in decision making or providing a service.
- Delivery or non-delivery of services.
- Quantity, frequency, change or cost of a service.
- Attitude or behaviour of staff.
- Application of eligibility and assessment criteria.
- Assessment, care management and review.
- Change/closure of service.
- Financial issues.
- Working practices which are contrary to Havering's policies on:
  - Health and Safety.
  - Equal Opportunities.
  - Racial, Harassment or Bullying.

The Council will always treat complainants with courtesy and respect and Council staff have the right to be treated the same. Rude, violent or abusive behaviour towards Council staff will not be tolerated.

When you make a complaint we will contact you to ensure that we understand fully. Where possible, we will also discuss what you would like to happen to help resolve your complaint.

#### What is the complaint process?

When a complaint is made, the Customer Insight, Information and Investigations team will contact the person to ensure that the complaint is fully understood and where possible, discuss what they would like to happen to resolve the complaint.

- We will aim to **acknowledge** your complaint within **3 working days**.
- Your complaint will be assessed to decide how it will be handled. A member of the Customer Insight, Information and Investigations team will discuss and agree this with you.
- We will aim to **respond** to your complaint within **10-20 working days** from the date the complaint is agreed and/or required consent information is received.

- If your complaint involves another agency, e.g. health, home care services or residential/nursing home we will discuss this with you and the relevant agency to agree how the complaint should be handled. We will aim to **respond within 25 working days**.
- Mediation may be considered as a way to help resolve your complaint and this will be discussed with you if appropriate.
- We will keep you informed about the progress of your complaint and discuss any changes to the handling of your complaint with you.
- The outcome of a complaint will be provided in writing and will explain how the complaint has been considered, the conclusions reached and any remedial action which is necessary.
- Mediation may be considered as a way to help resolve the complaint and this will be discussed if appropriate.
- The person who raised the complaint with us will be kept informed about any changes and the progress of their complaint including any delays with an explanation.

There is a 12-month limit in which a complaint can be made from the time that the matter occurred or from the time, it came to the attention of the complainant. If your complaint is older than 12 months we may still be able to consider it if there are extenuating circumstances that led to the delay of the complaint being made, and it is still possible to investigate the complaint effectively and fairly.

### Completion of local complaints process

If you have been through all stages of our complaints procedure and are still unhappy, you can ask the Local Government and Social Care Ombudsman to review your complaint.

The Ombudsman investigates complaints in a fair and independent way - it does not take sides. It is a free service.

The Ombudsman expects you to have given us a chance to deal with your complaint, before you contact them. If you have not heard from us within a reasonable time, it may decide to look into your complaint anyway. This is usually up to 12 weeks but can be longer for social care complaints that follow a statutory process.

### About the Ombudsman

The Local Government and Social Care Ombudsman looks at individual complaints about councils and some other organisations providing local public services It also investigates complaints about all adult social care providers (including care homes and home care agencies) for people who self-fund their care.

### Contact

Website: [www.lgo.org.uk](http://www.lgo.org.uk)  
Telephone: 0300 061 0614

### Opening hours

Monday to Friday: 10am to 4pm (except public holidays)



## Children's Social Care

### What can complaints be about?

In general terms anything related to the actions/omissions of Children's Services in connection with a child or young person who is looked after or in need, such as:

- An unwelcome or disputed decision.
- Concern about the quality of a service.
- Delay in decision making or providing a service.
- Delivery or non-delivery of services.
- Quantity, frequency, change or cost of a service.
- Attitude or behaviour of staff.
- Application of eligibility and assessment criteria.
- Application of a local authority policy which impacts on a child or young person.
- Assessment, care management and review.
- Change/closure of service.
- Financial issues.
- Working practices which are contrary to Havering's policies on:
  - Health and Safety.
  - Equal Opportunities.
  - Racial, Harassment or Bullying.

The Council will always treat complainants with courtesy and respect and Council staff have the right to be treated the same. Rude, violent, threatening or abusive behaviour towards Council staff will not be tolerated.

When a complaint is made, the Customer Insight, Information and Investigations team will contact the person to ensure that the complaint is fully understood and where possible, discuss what they would like to happen to resolve the complaint and any support needed, such as advocacy.

### What is the complaint process?

The complaint will be taken at **Stage 1: Local Resolution**:

- We will acknowledge your complaint within **3 working days**.
- Your complaint will be discussed and agreed with you and advised on how it will be handled.
- You will have a response within **10 working days** with a further 10 working days with agreement.
- Your complaint will be progressed from date complaint is agreed and/or required consent information is received. Where a meeting or telephone conference would be appropriate, a response will be sent within **10 working days** from the date of the meeting/telephone conference being held.

If you remain dissatisfied you can request to progress your complaint to the next stage (Stage 2) and this must be requested within 20 working days of the Stage One response.

If your complaint is progressed to **Stage 2 – Independent Investigation**:

- Your complaint will be re-investigated by an independent investigator and overseen by an Independent Person. The Independent Person ensures the investigation is carried out fairly and in the best interests of the child.
- Your complaint will be discussed between the complainant and the Independent Investigator and Independent Person to agree a Statement of Complaint.

- An individual report will be produced following an investigation by the Independent Investigator after accessing relevant records and interviews with staff.
- Your complaint will be adjudicated following receipt of the Independent Investigator report and any comments by the Independent Persons reports by the Assistant Director/Director.
- Once your complaint has been concluded the adjudication decision and the reports will be sent to you.

Stage 2 will take between **25-65 working days** from the date the Statement of Complaint is agreed and signed.

If you still remain dissatisfied you can request to progress your complaint to **Stage 3** – Review Panel. This must be requested within 20 working days of the Stage Two response.

- A Stage 3 Review Panel will be held within **30 working days** and you will be notified of the date.
- You can make representation to the Panel either in writing or in person.
- The Review Panel will review the Stage 2 investigation but will not reinvestigate the complaint.
- Following the Review Panel, the Chair will provide its recommendations to the Director of Starting Well within **5 working days**.
- The Director will send the decision to you within **15 working days** following receipt of Chair's recommendations.
- The outcome of a complaint will be in writing explaining how the complaint has been considered, the conclusions reached and any remedial action necessary.
- Mediation may be considered as a way to help resolve the complaint and this will be discussed if appropriate.
- The person who raised the complaint with us will be kept informed about any changes and the progress of their complaint including any delays with an explanation.

### Completion of local complaints process

Complaints, which are made against a local authority, are the responsibility of the Local Government & Social Care Ombudsman (LGSCO) who has the necessary remit to cover local government issues.

The Parliamentary and Health Service Ombudsman has the authority to carry out joint investigations of health and social care complaints.

The LGSCO can be contacted if dissatisfied with the outcome of a complaint. The LGSCO would expect a complaint to have gone through all three stages, before investigating a complaint. However they may consider early referrals.

### About the Ombudsman

The Ombudsman can be contacted:

#### In writing:

Local Government & Social Care Ombudsman (LGSCO)  
PO Box 4771, Coventry CV4 0EH

**Telephone: 0300 061 0614**

**Online:** <http://www.lgo.org.uk/adult-social-care>

## Appendix 4: Access to Information Procedure – Data protection complaints procedure

When you make use of a service with the Council, the personal data you provide is required for statutory reasons, legal reasons, contractual reasons or we have gained your consent.

The Council only processes personal information in compliance with their privacy notice and in accordance with the relevant data protection laws.

The Freedom of Information Act (FOIA) requires public authorities to provide advice and assistance to people who make, or propose to make, requests for information, under Section 16 – Advice & Assistance of the FOIA 2000.

The FOIA gives anyone, anywhere, the right to know about the work, activities, and decisions of all public bodies in the UK.

You can access any information that is recorded by us, the Council, or other public authorities, subject to it being held and/or not covered by an exemption.

Public authorities are required to respond to Freedom of Information (FOI) requests promptly and within **20 working days**, however, there are some exemptions to the types of information that can be requested (see notes below). If an exemption applies we will write and tell you which exemption is being applied and why.

There are a number of ways to access information held by the Council:

- **FOI requests** – relate to the business dealings of the Council, these include any information held on computers, within email, printed or handwritten in documents as well as videos, images and audio recordings. The Council has **20 working days** to provide a response from the date of receipt received into the Council. FOI requests must always be in writing.
- **Environmental Information Requests (EIR)** – relate to requests for information relating to noise, air pollution, emissions, soil, buildings and animals. Information held on computers, in emails and in printed or handwritten documents as well as images, video and audio recordings. The Council has **20 working days** to provide a response from the date of receipt received into the Council. All EIRs should be made in writing, although we will accept requests verbally if required.
- **Internal Review** – if a requester is not satisfied with their FOI or EIR response, they have the right to request an internal review. The review is carried out by a member of staff in the Customer Insight, Information and Investigations team. The Council has **20 working days** from receipt to respond to this request. Please note that if the request is complex more time to respond will be allowed (up to a maximum of 40 days), but you will be informed of this extension.
- **Data Protection / Subject Access Requests (SAR)** – These relate to the personal information the Council hold about individuals, including staff who require access to their personal information. The Council has **30 calendar days** to provide a response from date of receipt received into the Council. Any data breaches risk heavy fines, which are imposed by the Information Commissioner.
- **Right to Erasure** – This is a right under GDPR, which gives individuals the right to request that their personal data held by the Council be erased. The Council must respond to these requests within **30 calendar days**.

- **Release of Public Sector Information** – are requests to use the information contained within responses received from the Council. The Council must respond to these requests within **20 working days**.

Please note that a fee may be payable depending on the complexity and volume of the information being requested.

## Lodging a complaint

If you wish to raise a complaint regarding the processing of your personal data or you are dissatisfied with how we have handled your information, you can lodge a complaint with the Havering Data Protection Officer (DPO) using the details below.

Your complaint will be investigated by the Information Governance Team within Havering Council and will be responded to within one month. Where your request is complex, legislation allows us to extend this period for up to a further two months. If we need to apply this extension, we will inform you within one month of receipt of your original request. Once the investigation is complete, it will be reviewed by the DPO before the final response is issued to you. Where you have exercised any of your rights under Data Protection law in your complaint, these will be responded to as part of your complaint.

If you are not satisfied with our response to your complaint, you have the right to lodge a complaint with [the Information Commissioners Office \(ICO\)](#), who oversees compliance with Data Protection laws within the UK. They can be contacted:

### About the Information Commissioners Office (ICO)

Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF

**Telephone:** 0303 123 1113 (local rate) or 01625 545745

### Notes:

FOIA exemptions exist to help the Council protect vital and sensitive information that, if released, could harm the Council, another individual or business. The information is categorised into three main areas:

**Public:** This is information which is made public, which may include policies, procedures, financial statements, information that by law, the Council is required to publish. When a request for this type of information is received, it is usually released without exemptions.

**Private:** This information about the workings and running of the Council, it's relationships with other businesses, etc. There may well be elements which are commercially sensitive that can be released, such as a copy of a contract in place, but there may also be elements that would attract an exemption, such as trade secrets of a contractor, information covered by legal privilege or protected under other laws.

**Personal:** This information contains details about a living individual that may be considered personal information. Personal Information is protected under the Data Protection Act 2018 which is referenced in one of the FOIA exemptions.

**Exemptions:** are split into two types, 'absolute' and 'qualified'. Absolute Exemptions - the public interest test does not apply. If an absolute exemption applies, in all the circumstances, to the information held by the Council, no other test is required. Qualified Exemptions – the public interest test applies.

Each case must be assessed on its own merit to decide whether the exemption can be applied or not. Of the 13 exemptions that apply to records held by Local Authorities, eight are subject to the 'Public Interest Test'.

**Public Interest Test:** The Public Interest Test involves considering the circumstances of each particular case and the exemption that covers the information. Based upon these facts the decision to disclose is made. The information can only be withheld if the public interest in withholding is greater than the public interest in the release of the information. The easiest way to do this is to document the reasons why the public interest is served in releasing the information and the reasons why it is served in withholding. When done fairly and without bias, the result should clearly indicate where the public interest lies. If the reasons for and against are equal, the law is clear that the authority should favour releasing the information. Where the Council considers that the public interest in withholding the information requested outweighs the public interest in releasing it, the authority must still inform the requester what information is held, exemptions that apply and reasons why the public interest test favours withholding, unless to do so would be releasing the exempt information.

The Council must consider the relative weight of the argument for and against disclosure. This can be affected by the likelihood and severity of any prejudice; the age of the requested information, how far the requested information will help the public to understand and whether the information is already in the public domain.

Where a qualified exemption applies and the Council does not wish to confirm or deny it holds the requested information, the decision to provide a 'confirm or deny' response is itself subject to the public interest.

**Vexations Requests:** can be seen as harassing the authority with multiple requests, causing distress to staff, impose a significant burden (in terms of expense and distraction) to the Council. In these cases, Havering Council follows the ICO Vexatious Requests process, which is outlined on their [website](#).

## Appendix 5: Remedies Protocol

A remedy is the means by which we put things right after some level of maladministration has been identified. The Council's approach to remedies is based on our six complaint principles as outlined in the policy.

We will be fair by treating each case individually and ensure the remedy is fair when considering the specific circumstances of the case. We will look at the severity of the maladministration/ service failure and the impact that this has had on the individual.

We will be honest and explain how we will correct the service failure.

We will then learn from each case. We will look beyond the circumstances of the individual complaint and consider whether anything needs to be 'put right' in terms of process or systems to the benefit of all residents.

There are two different types of remedies; Payments that we are obliged to make through our statutory complaints, and those that we choose to make. Those statutory remedies fall outside of the scope of this policy.

The different remedies that the Council could offer include:

- **Apology** - In some circumstances, a complainant may feel that an apology is all that is required. An apology will be made in writing or in person.
- **Specific actions** - We will consider whether there is some practical action which would provide all or part of a suitable remedy. Including:
  - o Looking at our contractual arrangements to see if there are any amendments required to improve the service offered.
  - o Looking at making changes to our policies, procedures, systems, staff training, or all of these, to ensure that the maladministration is not repeated.
- **Financial Remedy**– We will consider offering a financial remedy where it is deemed appropriate. All calculations will be based on what is considered fair on a case by case basis as outlined below.

Our staff use their discretion to decide on the best remedy for a case and may therefore set out a remedy that does not fall into one of the categories above but is tailored to the individual circumstances of that particular case.

### Financial Remedy

The Council will consider if there has been an actual, evidenced financial loss incurred as a direct result of the maladministration and if any remedy should be offered to the resident for all or part of this loss, taking into consideration the specific circumstances of that case.

It should be noted that under this Policy, it is normal practice for any such financial remedy to be offset against any existing rent or other arrears owed to the Council.