

Wiltshire Council

Standards Committee

3 October 2024

Changes to Protocol 6 – Complaints Procedure

Purpose

1. To propose changes to Protocol 6 of the Constitution – Complaints Procedure to ensure compliance with the Complaint Handling Codes of the Local Government and Social Care Ombudsman and Housing Ombudsman. The Ombudsmen's new Codes and their implications for the council's complaint handling processes were reported to the Committee on 18 April 2024 ([link](#)).

Background

2. In February 2024, the Local Government and Social Care Ombudsman ([LGSCO](#)) and the Housing Ombudsman ([HO](#)) each published new Complaint Handling Codes (see Further Information).
3. The HO's 2024 Code became statutory from 1 April 2024, meaning that member landlords such as the council are now obliged to follow its requirements.
4. The LGSCO's 2024 Code is issued as "advice and guidance" for local councils in England under section 23(12A) of the Local Government Act 1974. This means that councils must consider the Code when developing complaint handling policies and procedures and when responding to complaints. If a council decides not to follow the Code, the LGSCO would expect it to provide a good reason for this.
5. The LGSCO encourages councils to adopt the Code as soon as they are able to, but it will start considering the Code as part of its processes from April 2026 at the earliest. This means that from then, when it investigates a complaint, the LGSCO will expect the relevant council to have adhered to the Code in terms of how the complaint was handled. The delay before the LGSCO begins enforcing its new Code is intended to give councils time to adopt its requirements into their working practices.
6. Examples provided by the LGSCO of when non-compliance will be permissible relate to temporary situations such as industrial action or a cyber-attack. It is therefore not feasible for the council to be non-compliant with the LGSCO's Code on a long-term basis.
7. The new Codes do **not** apply to complaints handled under the statutory adult social care or statutory children's complaints procedures, which have their own requirements set out in legislation.

Main Considerations

8. The council already has a single Complaints Procedure (Protocol 6) that covers both complaints about the council's actions as a local authority, which are overseen by the LGSCO, and the council's actions as a landlord, which are overseen by the HO.
9. The council's Complaints Procedure involves two stages, with a response provided by the relevant service at Stage 1, and an independent investigation undertaken by the Complaints team at Stage 2. Following this, the complainant is able to request a review by the relevant Ombudsman if they remain dissatisfied.
10. Most of the changes required for compliance with the Ombudsmen's new Codes involve relatively small adjustments to our existing complaint handling practices. These were reported to Committee in April 2024 ([link](#)). However, some of the changes require amendments to Protocol 6 – Complaints Procedure, and these changes are proposed below for recommendation to Full Council to approve on 15 October 2024.

Complaint response timescales

11. The most significant change is an overall **reduction** in the time permitted for responding to complaints under the LGSCO at Stages 1 and 2. The amended timescales are set out below in [blue](#):

Complaint stage	Wiltshire Council current practice (working days)	New LGSCO Code time limit (working days)
Complaint acknowledgement	2	5
Stage 1 response	20	10
Stage 1 extension	10	10
Stage 2 response	30	20
Stage 2 extension	10	20

12. As the table shows, under the LGSCO Code, services will have 10 fewer working days to provide complaint responses at Stage 1. The Complaints team will have 10 fewer days to provide responses at Stage 2 before using the extension, but due to a longer extension period, will have the same amount of time overall (40 working days).
13. Under the Codes, the timescale for responding to a complaint only commences once the complaint has been **acknowledged**. Complaints must be acknowledged within 5 working days of receipt, compared with the current practice of 2 working days. It should be noted that complaints emailed to the Complaints team receive an immediate auto-response confirming receipt, but

this does not represent the council's formal acknowledgment of the complaint. The subsequent formal acknowledgement indicates how the complaint will be handled, by whom and by what date.

14. To give an indication of performance against the current timescales, in 2023-24:

- 59% of the council's **Stage 1** responses were provided within the **current** timescale of 30 working days (including extension).
- 92% of **Stage 2** responses were provided within the **current** timescale of 40 working days (including extension).

15. Adapting to the reduced timescales therefore represents a significant challenge for teams involved in the complaint handling process – particularly services responding at Stage 1. As reported in April 2024, and following direction from the Corporate Leadership Team (CLT), the council has been preparing to meet the new timescales from 15 October 2024 when it is proposed that they be adopted by Full Council. The Complaints team has been supporting services with more guidance and training on good complaint handling practices.

16. Performance against the new timescales will be closely monitored by the Legal and Governance Performance and Outcomes Board (POB) and will be reported to the Standards Committee in the 2024-25 Annual Complaints Report. In addition, CLT have asked relevant directors to implement and report against action plans to address any service issues identified in the 2023-24 Annual Complaints Report.

17. The table below shows the current complaint response timescales at some other local authorities. This council's current timescales are slightly higher than average, however, anecdotal evidence suggests that many councils are further behind in achieving compliance with the new Codes more generally:

Council	Stage 1	Stage 2
	(not including any extension)	
BANES	15	20
Cornwall	10	20
Devon	20	20
Dorset	20	-
Durham	10	unknown
Gloucester	20	25
Hampshire	20	unknown
Shropshire	6 weeks	16 weeks
Somerset	10	20
Wiltshire	20	30

18. The only change to the timescales for responding to complaints under the Housing Ombudsman is an **additional** 10 working days for complaints at Stage 2. This provides consistency with the timescales required under the LGSCO Code:

Complaint stage	Wiltshire Council current practice (working days)	New HO Code time limit (working days)
Stage 1 response	20	10
Stage 1 extension	10	10
Stage 2 response	20	20
Stage 2 extension	10	20

Service requests and complaints

19. The Ombudsmen's Codes state the following:

1.2 A service request may be defined as: 'a request that the organisation provides or improves a service, fixes a problem or reconsiders a decision'.

1.4 A complaint may be defined as: 'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual or group of individuals.'

1.6 Organisations must recognise the difference between a service request and a complaint. This must be set out in their complaints policy. A service request is a request from a resident to the landlord requiring action to be taken to put something right. Service requests are not complaints, but must be recorded, monitored and reviewed regularly

5.2 ...It is not appropriate to have extra named stages (such as 'stage 0' or 'informal complaint') as this causes unnecessary confusion.

20. The current Complaints Procedure does define **complaints** as recommended under 1.4 but does not define **service requests** exactly as recommended under 1.2. It also refers on two occasions to "informal resolution"; a term which the Ombudsmen consider implies an additional stage of the complaints process and causes confusion for customers. Therefore, in the version proposed, the recommended definition of a service request is provided, and references to "informal resolution" are replaced with the term "service requests".

Proposal

21. To recommend that, on 15 October 2024, Full Council adopt the amended Protocol 6 – Complaints Procedure to achieve full compliance with the LGSCO and Housing Ombudsman's Complaint Handling Codes.

22. To note that the council's performance against the proposed new timescales will be monitored by the Legal and Governance Performance and Outcomes Board and will be reported to Committee in the Annual Complaints Report 2024-25.

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Appendices

- Appendix 1 Current Protocol 6 – Complaints Procedure
- Appendix 2 Proposed Protocol 6 – Complaints Procedure (without track changes)
- Appendix 3 Proposed Protocol 6 – Complaints Procedure (with track changes)

Further information

[Complaint Handling Code - Local Government and Social Care Ombudsman](#)

[Complaint Handling Code | Housing Ombudsman](#)