

**Changes to Protocol 6 of the Council's Constitution –
The Complaints Procedure**

Purpose

1. To propose changes to Protocol 6 of the council's Constitution – the Complaints Procedure – in order to:
 - a) ensure compliance with the Housing Ombudsman's new Complaint Handling Code; and
 - b) make the Complaints Procedure more comprehensive and user-friendly for customers.

Background

2. Most customer complaints to the council fall within the parameters of its corporate Complaints Procedure – Protocol 6 of the council's Constitution (**Appendix 1**). Exceptions to this are complaints that have their own dedicated, statutory complaints procedures, including those that are about:
 - Adult social care
 - Certain aspects of children's services under the Children's Act 1989
 - Elected members
 - The Wiltshire Police and Crime Commissioner.
3. It should be noted that when an issue is raised with the council for the first time, where appropriate, it is treated as a 'service request', rather than as a formal complaint. This reflects how the customer's priority is usually to have their issue promptly resolved rather than to seek formal redress. However, service requests can escalate to complaints where the customer remains dissatisfied or if the customer states from the beginning that they do wish to pursue a formal complaint.
4. The corporate Complaints Procedure comprises a two-stage process, with complaints moving from Stage 1 to Stage 2 when the customer remains dissatisfied following a Stage 1 response (as well in certain other specific circumstances):

	Lead	Time limit	Extension
Stage 1	Investigation and response from the appropriate service team	20 days	10 days

Stage 2	Investigation and response from the Complaints team	30 days	10 days
External review	Referral by the customer to the appropriate Ombudsman within 12 months.		

5. When a customer has completed Stage 2 of the Procedure and remains dissatisfied, they can contact the appropriate Ombudsman to request external review of the matter. The Ombudsman may choose to investigate and, if fault is found, direct the council to take remedial action to address the issues identified and avoid future recurrence. They may also recommend an apology and can also recommend an appropriate compensation payment to the customer.
6. The council works mainly within complaints frameworks administered by two Ombudsmen:
 - The Local Government and Social Care Ombudsman (LGSCO) – for most complaints regarding council services; and
 - The Housing Ombudsman – for complaints regarding the council as a social housing landlord.

Housing Ombudsman – new Complaint Handling Code

7. In March 2022, the Housing Ombudsman published a new Complaint Handling Code ([here](#)) following the original Code’s introduction in 2020. As a member landlord, the council’s complaint handling arrangements for social housing complaints must align with the mandatory elements of the new Code. Failure to comply with the new Code could lead to the issuing of a ‘complaint handling failure order’ against the council. A report on how the council is responding to the new Code more broadly is provided elsewhere on this agenda.
8. At present, complaints to the council about its actions as a social housing landlord are handled under its corporate Complaints Procedure. The Procedure is **not compliant** with the Housing Ombudsman’s new Code in the following ways:

Code section	Housing Ombudsman requirement	How the council’s current procedure is not compliant
1.2	A complaint must be defined as: <i>“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 resident or group of residents.”</i>	Defines a complaint as: <i>“any expression of dissatisfaction by you or your representative.”</i>

5.1	Landlords must respond to the Stage 1 complaint within 10 working days of the complaint being logged. 10 working day extension permitted	Requires Stage 1 responses to be provided within 20 working days of the complaint being logged (The current 10 working day extension complies with the Code)
5.13	Landlords must respond to the Stage 2 complaint within 20 working days of the complaint being escalated. 10 working day extension permitted	Requires Stage 2 responses to be provided within 30 working days of the complaint being escalated. Requires that extensions at Stage 2 do not exceed 20 working days

Main considerations

Housing Ombudsman – new Complaint Handling Code

9. The Housing Ombudsman’s new Code applied from 1 April 2022, with member landlords required to be compliant from 1 October 2022. The necessary changes to the council’s complaints procedure therefore need to be approved by Full Council on 18 October 2022. In practice, since July 2022, all complaints about the council’s actions as a social housing landlord have been responded to within the shorter timescales now set out in the new Code.

10. There are three options for making the council’s complaints procedure compliant with the Housing Ombudsman’s new Code:

Option 1 (preferred) – Amend the corporate Complaints Procedure to:

- Implement the new, shorter timescales for social housing complaints **only**; and
- Maintain existing timescales for all other complaints.

Advantages:

- Avoids adding a separate, new procedure purely for social housing complaints;
- Avoids setting timescales for responding to all other complaints that are not consistently achievable (which would reduce customer satisfaction and potentially prompt criticism from the LGSCO).

Disadvantages:

- Prioritises responding to one category of complaints over others.

Option 2 – Amend the corporate Complaints Procedure to reflect the new, shorter timescales for **all** complaints.

Advantages:

- Avoids adding a separate, new procedure only for social housing complaints
- Avoids prioritising one category of complaints over others.

Disadvantages:

- Risks implementing timescales for all complaints that are not consistently achievable (which would reduce customer satisfaction and potentially prompt criticism from the Ombudsmen).

Option 3 – Create a dedicated Social Housing Complaints Procedure reflecting the new, shorter timescales (with timescales in the existing corporate Complaints Procedure to be unchanged).

Advantages:

- Avoids implementing a timescale for all other complaints that cannot be achieved consistently (which would reduce customer satisfaction and potentially prompt criticism from the LGSCO).

Disadvantages:

- Reduces clarity and simplicity overall by creating a separate, new procedure purely for one specific category of complaints;
- Prioritises responding to one category of complaints over others.

11. An amended version of Protocol 6 – Complaints Procedure is provided at **Appendix 2** and reflects **Option 1** as the preferred option. This option is proposed for the following reasons:
12. In 2021-22, 71% of Stage 1 complaints and 60% of Stage 2 complaints were responded to within target timescales (including the current permitted extensions). These figures have been relatively stable for some years. Experience shows that meeting the timescales can be challenging due to the complexity of some complaints and to other operational demands. Reducing the target timescales for **all** complaints (Option 2) is therefore likely to increase the number of responses being provided late. This is likely to increase complainant frustration and potentially prompt criticism and findings of fault from the LGSCO.
13. Social housing complaints represent a small proportion of the total number of complaints handled under the Procedure (around 10-15%). Implementing a special target timescale only for these complaints should therefore have minimal impact on the response times for other complaints.
14. Introducing a new procedure exclusively for social housing complaints would increase the complexity of the complaints handling system overall. In addition, the current corporate Complaints Procedure is largely in line with the new Housing Ombudsman's Code. A whole new procedure could therefore be considered an excessive measure to address a small number of compliance issues.

Other amendments to the corporate Complaints Procedure

15. The current Protocol 6 – Complaints Procedure (**Appendix 1**) accurately sets out the current process but is not comprehensive or user-friendly as a public-facing document.
16. As well as addressing the issues of compliance outlined above, the proposed new Procedure attached at **Appendix 2** has the following advantages:
 - Provides an easy-reference flowchart of the complaints process
 - Sets out the council's commitment to valuing complaints and the objectives of its complaints function
 - Clarifies that complaints cannot be considered from corporate bodies, due to the lack of a personal injustice
 - Clarifies what a response to a complaint will include and what happens when a complaint is upheld
 - Describes how the council will:
 - respond to anonymous complaints, complaints about multiple services and about other agencies
 - use complaints data to learn and improve
 - protect customers' data and confidentiality
 - manage unreasonable customer behaviour
 - support customers with specific needs to access the procedure.

Consultation

17. The Constitution Focus Group (CFG) considered the proposed Code on 26 September 2022. CFG agreed that the proposed changes to the definition of a complaint and to the target timescales for response were necessary in order to maintain compliance with the Housing Ombudsman's Code.
18. Wiltshire Council's Housing Board will consider the proposals on 28 September 2022 and its comments will be reported to Standards Committee.

Proposal

19. To note that the current corporate Complaints Procedure is not compliant with the Housing Ombudsman's new Complaint Handling Code.
20. To note the comments of the Constitution Focus Group and Wiltshire Council's Housing Board.
21. To recommend to Full Council that the amended 'Protocol 6 – Complaints Procedure' as outlined under Option 1 (attached at Appendix 2) is adopted to provide compliance with the Housing Ombudsman's new Complaint Handling Code and to make the Procedure more comprehensive and user-friendly for customers.

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Appendices

Appendix 1 **Current** 'Protocol 6 – Complaints Procedure' of Wiltshire Council's Constitution

Appendix 2 **Proposed amended** 'Protocol 6 – Complaints Procedure' of Wiltshire Council's Constitution