

Wiltshire Council

Full Council

18 October 2022

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

Summary

This report asks Full Council to consider the recommendation of the Standards Committee to adopt a new Protocol 6 of the council's Constitution – the Complaints Procedure.

Proposals

To adopt the amended Protocol 6 – Complaints Procedure as attached at Appendix 2, within the Constitution

Reason for Proposals

To ensure that the council's arrangements for handling complaints about its actions as a social housing landlord are compliant with the Housing Ombudsman's Complaint Handling Code.

To ensure that the council's Complaints Procedure is clear, comprehensive and user-friendly for all residents.

Perry Holmes – Director, Legal & Governance (and Monitoring Officer)

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

Purpose

1. The report asks Full Council to consider the recommendation of the Standards Committee to adopt a new 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 clear, comprehensive and user-friendly for all residents.

Relevance to the Council's Business Plan

2. In keeping with the council's commitment to 'ensure decisions are evidence-based', the new Complaints Procedure emphasises a complaints function that enables the council to learn from customer feedback in order to improve.
3. The Complaints Procedure also supports the council's objective to 'treat every individual, family and household fairly and equally'.

Background

4. Most customer complaints to the council fall within the parameters of its Complaints Procedure – Protocol 6 of the council's Constitution (existing version attached at **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.
5. The 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 working days	10 working days
Stage 2	Investigation and response from the Complaints team	30 working days	10 working days
External review	Referral by the customer to the appropriate Ombudsman within 12 months.		

6. 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.
7. 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

8. 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 could lead to the issuing of a 'complaint handling failure order' against the council.
9. Complaints to the council about its actions as a social housing landlord are handled under its Complaints Procedure. The current 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	<p>A complaint must be defined as:</p> <p><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></p>	<p>Defines a complaint as:</p> <p><i>“any expression of dissatisfaction by you or your representative.”</i></p>
5.1	<p>Landlords must respond to the Stage 1 complaint within 10 working days of the complaint being logged.</p> <p>10 working day extension permitted</p>	<p>Requires Stage 1 responses to be provided within 20 working days of the complaint being logged</p> <p>(The current 10 working day extension complies with the Code)</p>
5.13	<p>Landlords must respond to the Stage 2 complaint within 20 working days of the complaint being escalated.</p> <p>10 working day extension permitted</p>	<p>Requires Stage 2 responses to be provided within 30 working days of the complaint being escalated.</p> <p>Requires that extensions at Stage 2 do not exceed 20 working days</p>

Main considerations

Housing Ombudsman – new Complaint Handling Code

10. The Housing Ombudsman's new Code applied from 1 April 2022, with member landlords required to be compliant from 1 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 set out in the new Code.

11. On 5 October 2022, the Standards Committee considered three options for achieving compliance with the Housing Ombudsman's new Code:

Option 1 – Amend the Complaints Procedure to:

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

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

Option 3 – Create an additional new complaints procedure dedicated to Social Housing complaints, reflecting the appropriate timescales.

12. The Standards Committee, as recommended by the Constitution Focus Group, supported **Option 1** and as such recommended that the version of Protocol 6 – Complaints Procedure attached at **Appendix 2** be adopted by the Council.
13. Once approved the document would be formatted to align with the rest of the constitution, alongside a public facing version.
14. Option 1 has the following advantages:
- a) 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) would therefore be likely to increase the number of responses being provided late. This is likely to increase frustration for complainants and potentially prompt criticism and findings of fault from the LGSCO.
 - b) Social housing complaints represent a small proportion of the total number of complaints handled under the Procedure (around 10-15%). Implementing a specific target timescale only for these complaints will therefore have minimal impact on response times for all other complaints handled under the Procedure.
 - c) Introducing a new procedure exclusively for social housing complaints would increase the complexity of the complaints handling system overall. In addition, the current Complaints Procedure is in line with the new Housing Ombudsman’s Code, excepting the issues detailed above.

Other amendments to the corporate Complaints Procedure

15. The current Protocol 6 – Complaints Procedure accurately sets out the current complaints process, but is not comprehensive or user-friendly as a public-facing document. The Procedure has been redrafted to address this, and the new version proposed:
- 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.

Overview and Scrutiny Engagement

16. The new Complaints Procedure has been considered by Wiltshire Council's Housing Board on 28 September 2022 and the Standards Committee on 5 October 2022. The Standards Committee has recommended its adoption as the Committee responsible for overseeing the council's complaint handling arrangements.

Safeguarding Implications

17. As stated in the proposed Complaints Procedure, all complaints represent a learning opportunity for the council. It is important that all residents are supported to access a simple but robust complaints procedure when they wish to raise concerns about the council's actions in regard to safeguarding vulnerable people.
18. The proposed new Complaints Procedure clarifies that anonymous complaints will be considered where enough information is provided. It also sets out how serious complaints will be handled.
19. The proposed new Complaints Procedure clarifies that legal requirements and internal policies will be respected when considering complainant confidentiality.

Public Health Implications

20. There are no public health implications arising from this report

Procurement Implications

21. There are no procurement implications arising from this report

Equalities Impact of the Proposal

22. The Complaints Procedure states that:

- *Everyone has the right to access the process. Customers who do not have English as a first language will be offered help with interpretation and translation services, and other customers may have specific needs that we will seek to address;*
- *The council will always take into account its commitment and responsibilities to equality. This includes making reasonable adjustments to the Complaints service to help the customer where appropriate;*
- *Several support and advocacy groups are available to support customers in pursuing a complaint and customers will be signposted to these as appropriate.*

Environmental and Climate Change Considerations

23. There are no environmental and climate change implications arising from this report

Workforce Implications

24. The shorter timescales for responding to social housing complaints required under the proposed Complaints Procedure are deliverable with the council's current workforce structure.

Financial Implications

25. There are no financial implications arising from this report.

Legal Implications

26. The proposed Complaints Procedure is in keeping with the council's legal duties regarding handling complaints as well as the requirements of the relevant Ombudsmen.

Proposal

27. **To adopt the amended Protocol 6 – Complaints Procedure as attached at Appendix 2, within the Constitution**

Perry Holmes - Director for Legal & Governance (and Monitoring Officer)

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7 October 2022

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

Background Papers

None