

London Borough of Barnet

Corporate Complaints and Local Government and Social Care Ombudsman (LGSCO) Policy

November 2020

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1. Introduction

- 1.1 The London Borough of Barnet welcomes customer feedback about its services and staff, and we have a process for service users to express their views and opinions.
- 1.2 We will ensure that everyone is treated fairly and consistently in expressing those views and opinions, and we take into account equality and diversity issues.
- 1.3 We will also ensure that a customer's concerns are taken seriously, and that they receive a timely response and an explanation of how any decision was reached.
- 1.4 All complaints will be recorded on the council's complaints management system, and will help us to:
 - monitor our performance
 - to learn lessons for the future and
 - to inform and shape service delivery.

2. Principles and purpose

- 2.1. Our vision is to ensure that our customers are at the heart of complaints management and to use complaints as a learning opportunity to improve services.
- 2.2. We will use the information gained from complaints to help improve the quality of the services we provide and our relations with our customers. Complaints about services we provide or by our service providers will be addressed through this policy unless otherwise stated.

3. Responsibilities

- 3.1. The council will deal with complaints impartially, objectively and professionally. We will treat complainants with respect, as we ourselves would like to be treated.
- 3.2. Complainants and their families will not receive adverse treatment because they have made a complaint.
- 3.3. Complaints about services we provide, or by our service providers, may be addressed through this policy unless otherwise stated.
- 3.4. We will let complainants know which complaints policy is being followed, what stage your complaint is at and what the next stage will be in the complaints process.

4. What is a Complaint?

- 4.1. A complaint is 'any expression of dissatisfaction with our staff or the services that we deliver (including partners or contractors, acting on our behalf)'.
- 4.2. You can make a complaint if you are not satisfied with our service or:
 - you feel you have not been treated with courtesy or fairness
 - you are unhappy about the standard of service you have received
 - you feel we have failed to provide a service to which you are entitled
 - you are unhappy about the action taken by us.

Some areas of the council or their partners have their own complaints processes for example:

- [Children's social care complaints process](#)
- [Adults social care complaints](#)
- [Barnet Homes - Housing complaints](#)
- [Complain about your child's school](#)

- [Complain about the conduct of a Councillor](#)

4.3. We would not treat the following as a complaint and we would not consider them under our complaints process:

- The first request for a service or where we have been given insufficient time to deliver that service according to our service standards
- A request for information or a service
- An explanation of, a council policy or procedure
- An appeal against a decision where a statutory right of appeal exists, such as housing benefit, applicant appeals to the Planning Inspectorate and parking
- A complaint about another resident, as part of a neighbour dispute for example, where legal action is in progress. However, if a solicitor is acting as an advocate for a customer, this will be logged as a complaint and it will be dealt with in the usual way
- Insurance claims

This list is not exhaustive, but the council can only deal with complaints about services that it provides or that contractors provide on its behalf.

4.4. Not every expression of dissatisfaction will be a complaint. If you are dissatisfied about something we have not done then you should request for us to do something. We will then deal with your request as part of our day to day business, not through our complaints process.

5. Complaints outside the council's responsibility

5.1. Certain types of complaint will not be dealt with through the council's complaints procedure because there are other processes more suitable for dealing with them, or because they are outside the council's control. These include:

- Matters of law or central government policy.
- Complaints where the customer or the council has started legal proceedings.
- Complaints that have already been decided by a court or independent tribunal.
- Complaints from staff about personnel matters, including appointments, dismissals, pay, pensions and discipline. These are dealt with under the council's HR procedures.
- Services for which there are alternative statutory appeal or tribunal processes, including:
 - Appeals against statutory notices
 - Appeals against parking tickets (PCN's) or enforcement actions
 - School admission or exclusion appeals
 - Special Educational Needs Tribunals
 - Housing Benefit appeals
 - Housing appeals
 - Reviews/appeals against the Fairer Contribution Policy
 - Insurance claims
 - Appeals against planning consent decisions and enforcement notices¹

Complaints about the conduct of council officers will also be considered under the council's complaints policy.

¹ However, if you are a resident who has been affected by a planning decision, as there is no right of statutory right of appeal, these complaints will be considered under the council's Corporate Complaints Policy.

6. Who can complain?

- 6.1. Anyone who uses or is affected by our services can make a complaint. This includes:
 - Residents
 - People who work in or visit the borough
 - Local businesses
 - Community groups
- 6.2. Some people may need help to make a complaint, and so we accept complaints made on their behalf, provided that the person affected has given their consent. Complaints could be made by a concerned relative or Carer, a Councillor or Member of Parliament, a Solicitor or other Advocate, or an advice agency.
- 6.3. The council reserve the right to limit correspondence with any such party that falls out of the above categories.
- 6.4. In cases involving children or vulnerable people, if it seems that the person may be unable to give their consent, we will need to make a judgment as to whether it is appropriate to accept the complaint from their representative.
- 6.5. Councillors can use the complaints procedure in their capacity as citizens and service users – for example, they could complain as any other tenant about the failure to do repairs to their council house, or about delay in dealing with their application for Housing Benefit. But the complaints procedure is not appropriate for complaints which arise from their role as members of the council.

7. How can a complaint be made?

- 7.1. To make a complaint, please use our online complaints form which can be viewed here www.barnet.gov.uk/complaints
- 7.2. Alternatively, you can make a complaint by:
 - Phoning 020 8359 2000 or
 - Writing to Barnet Council, 2 Bristol Avenue, Colindale, London NW9 4EW.
- 7.3. The council is committed to ensuring that the services we provide are relevant and accessible to all sections of our community. If customers have particular needs, we will do our best to meet these needs to make it easier to use the complaints procedure.

8. Time scales for responding to complaints

Informal resolution

- 8.1. If there's something that you're unhappy with, you can speak to a member of staff, or ask for their manager's details. If you're unsure about who to contact, you can contact the department's Complaints Officer or phone 020 8359 2000, who can put you in touch with the right person.
- 8.2. Often, the best way to resolve things quickly is for you to talk it through with a manager to agree a way forward. The manager may offer to have a telephone discussion or face to face meeting to resolve the points of your complaint.
- 8.3. If a complaint can be resolved within 24 hours, there is no need to engage this complaints procedure.

Acknowledging formal complaints

- 8.4. We will acknowledge a complaint within two working days of receiving it.
- 8.5. We should receive your complaint as soon as possible, but not more than three months from the incident which led to your complaint, or if a series of incidents then not more than three months from the last incident.
- 8.6. The council has a two Stage Complaint Policy in place. We will endeavour to resolve the complaint at the first stage if possible.

Stage 1

- 8.7. The council will direct your complaint to the relevant Complaints Link Officer who will liaise with the Service Manager to respond directly to you.
- 8.8. The council will respond to your **Stage 1 complaint within 10 working days of receipt.**

Stage 2

- 8.9. Where a proposed resolution is not accepted, the complainant may appeal and ask for the complaint to progress to Stage 2. The complaint will then be passed to the relevant senior manager who will review the Stage 1 response and investigate further before issuing a Stage 2 response.
- 8.10. The council will respond to your **Stage 2 complaint within 30 working days of receipt.**
- 8.11. In order to escalate your complaint to Stage 2 you will need to explain why you remain dissatisfied with the council's response at Stage 1. Please also refer to section 9 for further guidance.
- 8.12. Without sufficient information on the grounds for escalation, the council may not be able to escalate your complaint and we will notify you of our decision.
- 8.13. It should be noted that whilst your complaint is being considered, the council is unable to place any relevant enforcement action or otherwise on hold.
- 8.14. Once your complaint has completed the council's complaints procedure, the council cannot re-open a complaint which deals with the same matters.
- 8.15. Please note, there are different timescales for Statutory Complaints in Family Services and also the Adults and Health Directorate. Please refer to Section 4.

Complaints spanning more than one area

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

Local Government and Social Care Ombudsman

- 8.17. 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.
- 8.18. The Ombudsman investigates complaints in a fair and independent way - it does not take sides. It is a free service.
- 8.19. 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.

- 8.20. The Ombudsman expects you to have given us chance to deal with your complaint, before you contact them. If you have not heard from the council within a reasonable time, the LGSCO 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.
- 8.21. To contact the Ombudsman please visit their website - www.lgo.org.uk or phone 0300 061 0614 (Open - Monday to Friday: 10am to 4pm (except public holidays))

9. When can I make a complaint?

- 9.1. We encourage complainants to make a complaint as soon as possible after the incident because it is easier to collate relevant documentation at the time.
- 9.2. We request that you contact us within three months of the incident.
- 9.3. If the complaint is not resolved at Stage 1 then you can advise the council of your wish to appeal to Stage 2 but this should be done within one month of the date of the decision at Stage 1.
- 9.4. You will also need to provide satisfactory grounds for escalation to Stage 2, as referenced in our Stage 1 response letter.

10. Management of unreasonable complainant behaviour Policy

- 10.1. Barnet Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who complain. Access to this service and to council offices and employees is not normally limited. However, there are a small number of complainants who, because of the frequency of their contact with the council, hinder consideration of their own complaints.
- 10.2. In most cases, complaints can be dealt with quickly and efficiently. However, the behaviour of a minority of customers can make investigating and resolving a complaint difficult. These customers can also take up a lot of officer time so there is less time to help others.
- 10.3. In a very small number of cases, a complainant's behaviour may become unacceptable. The council has a duty to protect its staff from behaviour which is abusive, offensive and threatening, and in these cases, will consider the matter under the procedure on unacceptable behaviour.
- 10.4. Features of a persistent complainant may include:
- Continuously shouting to a member of staff, swearing, threats, and name-calling.
 - Obsessive, harassing, or prolific behaviour
 - Making the same complaint repeatedly or with minor differences but never accepting the outcome
 - Seeking an unrealistic outcome and persisting until it is reached
 - Someone with a history of making other unreasonably persistent complaints.
- 10.5. When the relationship has become unworkable, the Corporate Complaints Manager, together with the Head of Assurance and Business Development, will consider the Management of Unreasonable Complainant Behaviour Policy – see www.barnet.gov.uk/complaints

11. Anonymous Complaints

- 11.1. Anonymous complaints will only be dealt with in exceptional circumstance and on a case by case basis because they might highlight areas for investigation by the Corporate Anti-Fraud

Team (CAFT) under the whistle blowing policy. A separate policy can be found at www.barnet.gov.uk/fraud

12. Link with other policies and procedures

12.1. Complaints about the conduct of Councillors

Information about making a complaint about a Councillors' conduct can be found at www.barnet.gov.uk/complaints-about-the-conduct-of-a-councillor.

A complaint about the conduct of a Councillor of the London Borough of Barnet must be submitted in writing using the form.

12.2. Complaints about the council social care services

Different complaint procedures and time-scales apply to some complaints by **users of the council's social care services**. These are dealt with under The Children Act 1989 Representations Procedure (England) Regulations 2006; and the Local Authority Social Services and National Health Services Complaints (England) Regulations 2009.

Complainants who receive or use a service from **Family Services** will be managed under separate guidelines. These can be found at www.barnet.gov.uk/barnet-childrens-social-care-complaints-process

Complainants who receive or use a service from the **Adults and Health Directorate** will be managed under separate guidelines. These can be found at www.barnet.gov.uk/adult-social-care-comments-and-complaints

12.3. Complaints about schools

Schools have their own complaint procedures. Complaints **about a school or a member of the school staff** should be made to the Head Teacher and then the school's governing body.

12.4. Parking Complaints

Challenges and representations against the validity of a Penalty Charge Notice (PCN) are dealt with under a statutory appeals process. This process is designated by the Traffic Management Act 2004 and designed to safeguard the interest of the appellant. Details on how to challenge a PCN is contained within the notice.

Alternatively, you can visit our website: www.barnet.gov.uk/parking where you will find helpful information regarding the PCN, including how to submit an online challenge or make a payment.

However, if you wish to complain about our enforcement practices or the behaviour of a member of staff, we may be able to consider this under our Corporate Complaints Policy.

12.5. Freedom of Information, Environmental Impact Assessments, Environmental Information Regulations, Re- use of Public Sector Information Regulations

Complaints regarding Freedom of Information (FOI), Environmental Impact Assessments (EIA) will not be dealt with under the council's Corporate Complaints Policy. There is a separate review, appeal and complaint route, which leads to the Information Commissioner if the complaint is not resolved satisfactorily internally. Please email foi@barnet.gov.uk

12.6. Data Protection Act 1998

Complaints made in connection with the Data Protection Act 1998 for example complaints in relation to a subject access request, the accidental disclosure of information, or the inappropriate sharing of personal data will not be dealt with under the council's Corporate

Complaints Policy. There is a separate review, appeal and complaint route for these types of complaint, which leads to the Information Commissioner if the complaint is not resolved satisfactorily internally. Please email data.protection@barnet.gov.uk.

12.7. Complaints about Barnet Homes

Barnet Homes is responsible for managing the council's housing stock and has its own complaints procedure.

For further information on how to make a complaint to Barnet Homes, please see www.thebarnetgroup.org/complaints

12.8. Complaints about staff

The council takes complaints about staff very seriously. Complaints about staff should be made directly to the council and will be considered under the Corporate Complaints Policy, with the only exception being if the complaint raises matters that will be managed under the council's HR procedures. Such complaints will not be dealt with under the council's Corporate Complaints Policy. Where the complaint concerns an agency worker then the council will coordinate any investigation with the relevant recruitment agency.

12.9. Whistle Blowing

There is separate guidance in place for whistle blowing, please see www.barnet.gov.uk/your-council/counter-fraud-policy-documents - for further information or call 020 8359 6123. You can also email whistleblowing@barnet.gov.uk.

12.10. Corporate Anti-Fraud

The council has a Corporate Anti-Fraud Team (CAFT), which is a specialist investigative unit established to investigate allegations of fraud and irregularities. CAFT's role is to assist the council in protecting the public purse through the facilitation of sound strategies, procedures and controls in the prevention, detection, investigation and deterrence of fraud, corruption and bribery.

If you think that someone is committing a fraud against the London Borough of Barnet, please contact our Fraud hotline on 020 8359 2007 or you can report this on our website, please see www.barnet.gov.uk/fraud-investigation

For more detail on the work of the council's Corporate Anti-Fraud Team, or on different types of fraud, please visit the Fraud Investigation pages of Barnet's Website - www.barnet.gov.uk/fraud-investigation

12.11. Complaints involving other agencies

The council works closely with other agencies and in some cases, have commissioned other organisations to provide services on its behalf. Complaints about these other agencies should be made directly to the council. We will liaise with the agency in question to ensure that your complaint is investigated fully and recorded on our system.

12.12. Complaints made by Members of Parliament and Councillors

The complaints policy is intended for us to allow those who are dissatisfied with our service to tell us in order for us to rectify mistakes and prevent them from happening again. Councillors and MPs may bring a formal complaint by acting as their constituent's advocate.

12.13. Environmental Health

Some services deal with matters that the customer might consider to be a complaint, but which are routine everyday business for their department. Examples may include complaints about noisy neighbours, barking dogs, dumped rubbish, bonfires, blocked drains, abandoned cars, rogue traders, dirty restaurants or food poisoning.

These initial and even subsequent complaints are deemed to be service requests and although the customer may say they wish to 'complain' about e.g. a noise, they should not be dealt with as a formal complaint but should be referred to and dealt with by the department in the usual way and within the departments own target response time for the issue.

However, if a customer wishes to complain about how their initial or follow up service request was dealt with or not dealt with, then this would fall under the complaints procedure.

More information about the Environmental Health Team can be found at:

www.barnet.gov.uk/environmental-health

13. Putting things right

13.1. When the council is at fault, we need to put things right by acknowledging our mistakes and apologising for them, explaining why things went wrong and what the council will do to prevent the same mistake happening again. This should happen at the earliest possible point in the process.

13.2. So far as possible, we will aim to place the customer back in the position they would have been if there had been no fault. Sometimes it is not possible to do this, and, in such cases, compensation may be appropriate. In other cases, a remedy could include:

- **Taking some specific action** - such as mending a leaking roof, backdating a re-housing application, assessing paying Housing Benefit, or reconsidering a decision.
- **Paying some compensation** - money is not the only, or the best, remedy in every case but the council will pay compensation if people are out of pocket because of our mistakes, or if they have been caused undue hardship, inconvenience or distress. We follow the guidelines issued by the Local Government & Social Care Ombudsman in deciding the appropriate amount of compensation. These can be found on the Ombudsman's website at www.lgo.org.uk/guidance-on-remedies.

Where the customer owes money to the council, for example rent or Council Tax arrears, any compensation will normally be offset against those arrears. But this will not normally apply where there is a legitimate dispute about the debt (for example, if there is a Housing Benefit claim pending), or if the compensation is for a specific purpose, such as replacing damaged possessions.

14. Learning from complaints

14.1. The council is committed to learning the lessons of complaints and using them to improve services.

14.2. The council puts the customer at the heart of its complaints process; it has a customer focussed approach to complaints handling and will ensure that lessons are learnt from complaints.

15. Confidentiality

- 15.1. All complaints will be dealt with in accordance with the requirements of the Data Protection Act 1998 and Freedom of Information Act 2000.
- 15.2. The identity of the person making a complaint will be made known only to those who need to know this will usually include those involved in the complaint in order to consider the complaint and will not be made public by the council.

16. Retention of complaint documents

- 16.1. Complaint documents are kept for ten years as per the council's Records, Retention and Disposal Policy.

17. Equality and diversity

- 17.1. The Equality Act 2010 places a duty on Barnet Council to have due regard to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not share them.
 - c) Foster good relations between persons who share a protected characteristic and those persons who do not share them.
- 17.2. We have sought to do this through our Equalities Policy, which defines our commitments and values and seeks to ensure that fairness and transparency are key elements of this policy. Please refer to www.barnet.gov.uk/equality-and-diversity

18. Associated Policies / Legislation

- Management of Unreasonable Complainant Behaviour Policy
- Corporate Complaints privacy notice
- Equalities Policy
- Adults and Health Directorate Statutory Complaints Policy
- Family Services Statutory Complaints Policy
- Data Protection Policy
- General Data Protection Regulation (GDPR)
- Records Retention and Disposal Policy

19. Review Policy

- 19.1. This policy will be reviewed when necessary, including following the receipt of best practice guidance from the Local Government and Social Care Ombudsman.
- 19.2. 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.