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tell us about your complaint – so we can
anything – or have any difficulties filling

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***Effective Complaint
Handling for local
authorities***

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Setting the standard for complaints

Having spent more than 30 years investigating complaints across a wide range of bodies in the public and private sector, I have always felt English Local Government stands out as an exemplar of good practice in listening to and acting upon public concerns. This document captures some of that rich experience, from councils and from our own investigations, and shares it with the sector for mutual benefit.

In the best authorities, complaints are never just a 'back office' customer service function. They put public concerns right at the heart of their corporate governance – where they should be – to ensure the voice of the citizen is firmly embedded in their risk management and accountability systems.

Most authorities use complaints as a barometer of external opinion and as an early warning of problems that might otherwise stay unseen. The best take that a step further and use critical feedback to drive a sophisticated culture of learning, reflection, and improvement. After all, at a time when money is tight, why spend a fortune on consultants, when the public are already providing free, first-hand intelligence about your organisation?

On an individual level, many of the most effective Council Leaders, Chief Executives, and Directors I have encountered take an active personal interest in complaints and concerns. That evidence enables them to scrutinise what they are being told internally with feedback from the frontline. And that insight equips them as leaders, to know when and where they should step-in, to cut through corporate defensiveness and bring an end to damaging disputes.



The best authorities... put public concerns right at the heart of their corporate governance ...to ensure the voice of the citizen is firmly embedded in their risk management and accountability systems.



Most importantly, the culture of listening to public concerns is fundamental to the democratic principles that define local government. That is why it is so impressive to see the work elected members do in many authorities through the scrutiny and oversight of complaints – providing the transparency and accountability that underpins continued public trust and engagement.

My office has been a part of that culture of 'Making Complaints Count' for nearly half a century – acting as the independent guarantor of citizens' rights, but also as a critical friend to local government. As part of that role, we have a statutory duty to provide guidance on complaint standards and have done so over many decades, in consultation with the sector, alongside an active programme of training to share our expertise.

This is the latest version of that guidance, rooted in the real-world experience of investigating tens of thousands of public concerns over recent years and updated to reflect the contemporary realities of local government. I hope that you find it useful in your work and in delivering our shared commitment to put the public voice at the heart of local accountability.

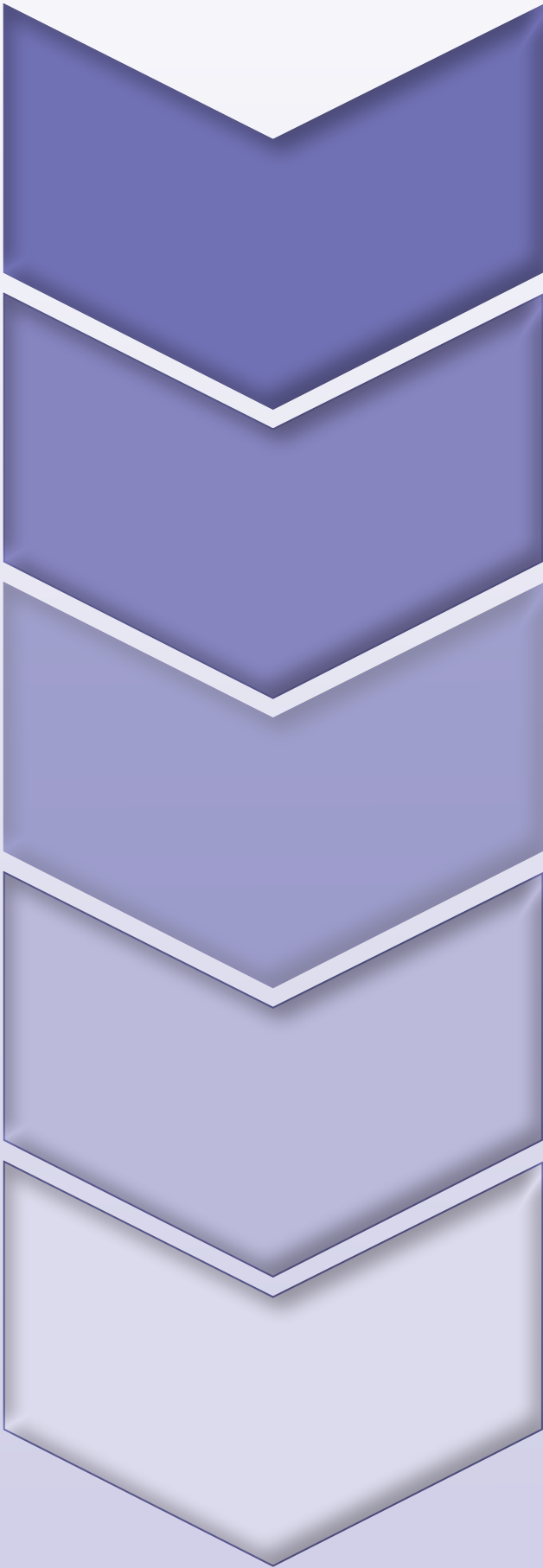


Michael King

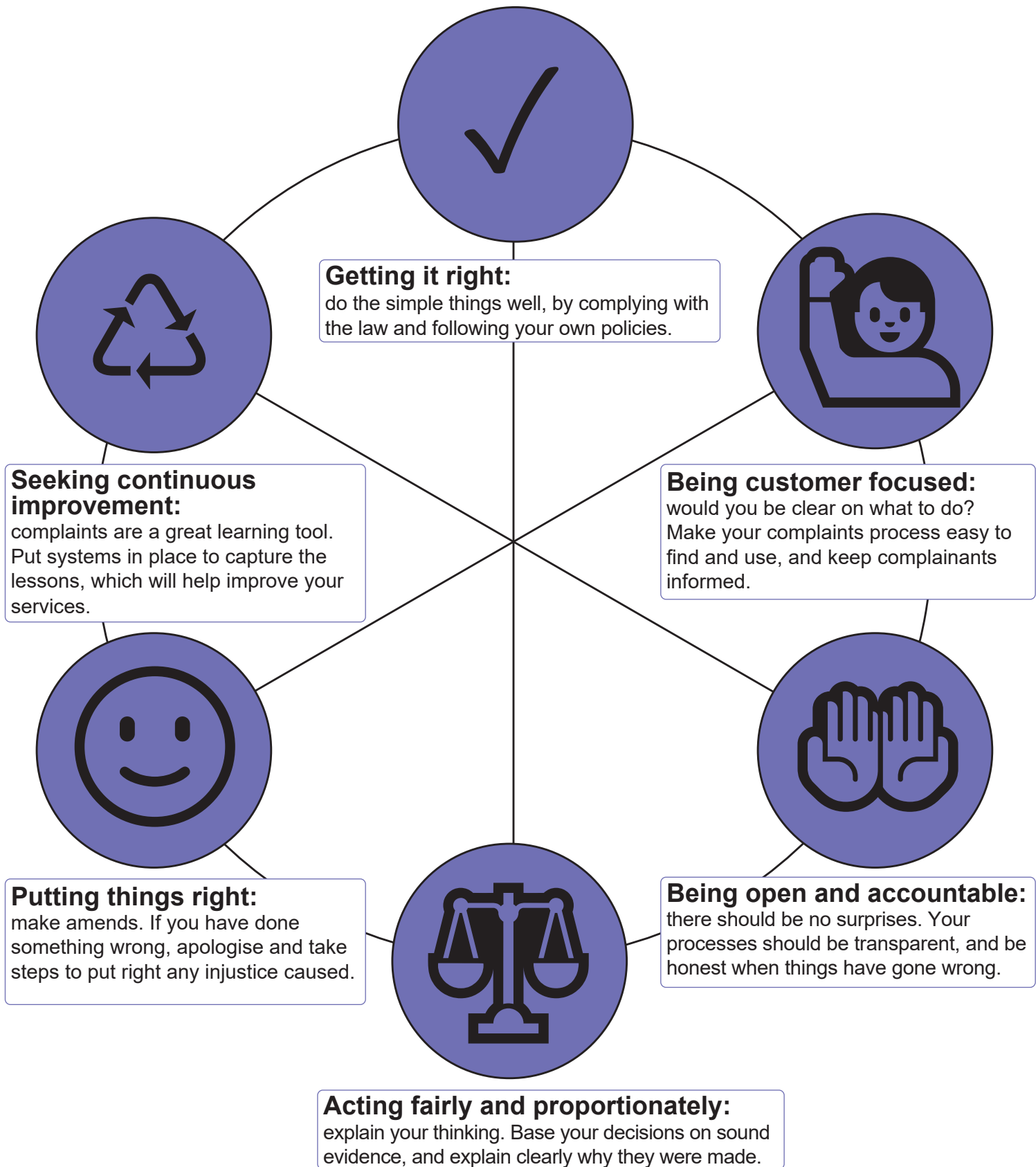
**Local Government and
Social Care Ombudsman**

October 2020

An effective complaints process



Complaints Standards - Principles of Effective Complaint Handling



Your complaints process

Your complaint process should be **tailored** to allow you to determine each complaint on its own merits. Investigations should be **proportionate** and **pragmatic**. You should be able to identify and act on learning opportunities from complaints, ensuring the lessons reach people in the council who can effect change.

Each complaint on its own merits

A good complaints process should comply with the law. In some cases the law sets out how you should handle a complaint, review or appeal, including timescales for responses. These include complaints about:

- > Children's services
- > Adult social care (including blue badge assessments)
- > School admissions, exclusions and transport
- > Housing benefit and council tax
- > Homelessness
- > Standards and member conduct
- > Parking and traffic offences.

These must be adhered to.

If a complaint does not fall under a statutory process then it is for you to determine how to respond to the complaint properly. We believe a good complaint process is flexible depending on the complaint and the complainant. There is no right or wrong number of stages to a non-statutory complaint process, what matters most is you investigate the complaint robustly and consider your findings properly. Once you are satisfied with your response you should direct the complainant to the Ombudsman by using the standard wording at the [end of this guide](#). This does not necessarily have to be at the end of the complaint process, but once you are satisfied there is no merit in further consideration and you have reached your final decision. The choice is yours.

Example:

You have a two-stage complaint process. Mr X's complaint is completely upheld at stage one. Mr X remains unhappy and asks to progress to stage two. You are satisfied you have robustly investigated the complaint and responded appropriately. You write to Mr X explaining your reasons and direct him to the Ombudsman.

Example:

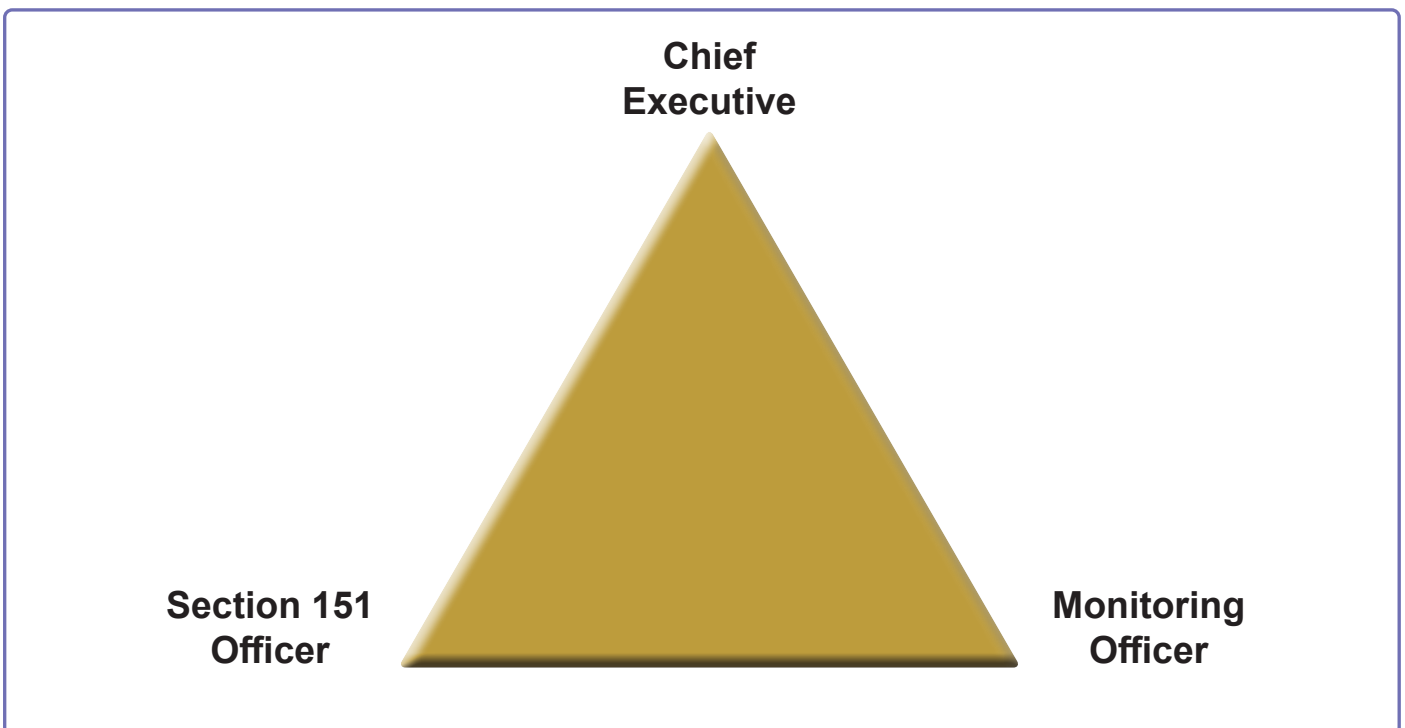
You have not upheld Miss Y's complaint at stage one or two of your process. You have directed Miss Y to the Ombudsman but she then sends you new and relevant information which she wants you to consider. We would expect you to consider this new information.

Your complaints process

The right person at the right time

For a complaints process to work properly it is vital the right people are involved and can make changes when something goes wrong. We expect robust oversight of complaint handling and any organisation who provides services on your behalf. An effective complaints process will ensure the right people are involved at the right stage.

To ensure effective governance, we believe the golden triangle of statutory officers at a council should be aware and engaged with complaints, and will intervene at the right time if needed.



Learning from complaints should be at the centre of your risk management and audit function and inform your contracting arrangements. You should have effective

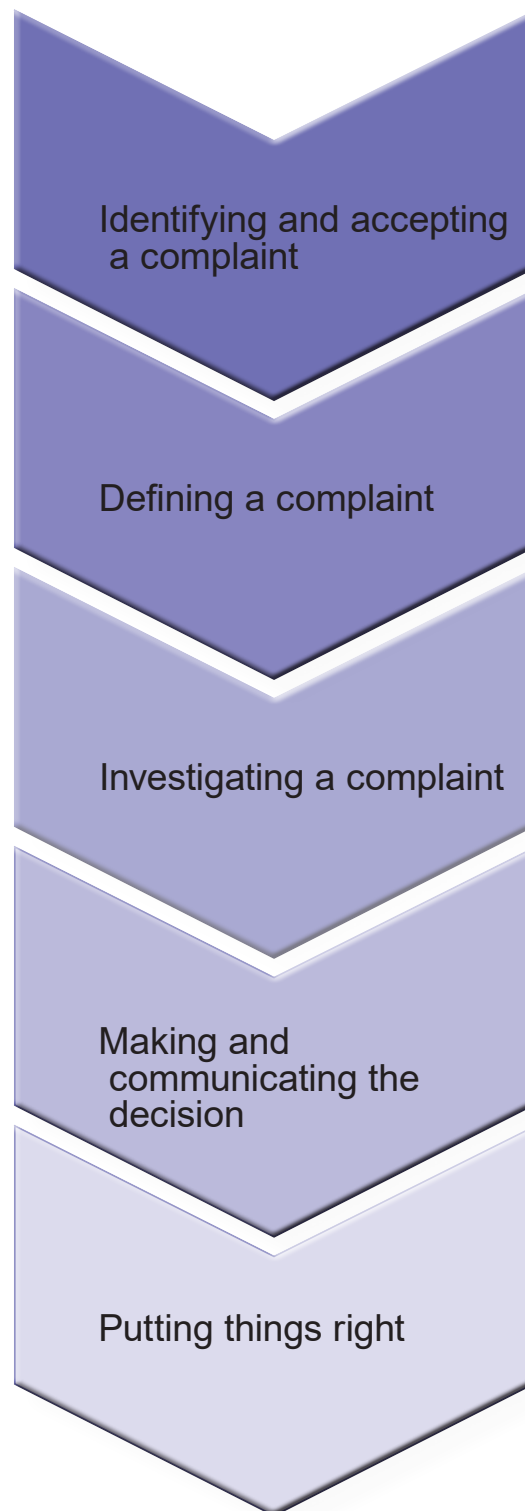
reporting mechanisms to ensure the right people hear about your complaint performance.



***A practical
guide to
effective
complaint
handling***

Effective Complaint Handling – a practical guide

There are five key elements to effective complaint handling:



Identifying and accepting a complaint

“A complaint is an expression of dissatisfaction about a council service (whether that service is provided directly by the council or by a contractor or partner) that requires a response.”

Making a complaint should be simple, accessible, clear and straightforward. We believe there is **no wrong door for complaints**. There is no difference between a ‘formal’ and an ‘informal’ complaint. While one service user may send in a letter headed ‘formal complaint’ another may tell frontline staff about something that concerns them. Both are expressions of dissatisfaction that require a response. You should have procedures in place for effectively identifying and accepting a complaint, no matter how it is raised, or with whom.

Getting it right

Make sure your complaints policy complies with the relevant law. It should be simple, clear and easy to access.

Being customer focused

Consider whether you need to make any reasonable adjustments for the complainant.

Being open and accountable

People should know they can complain and how to do it.

Acting fairly and proportionately

Offer service users support to make a complaint, if needed.

Putting things right

If you find something has gone wrong, do not wait until the complaint process has been completed to put it right.

Questions to ask on receiving a complaint:

- > Does the service user want to pursue a complaint?
They may have an outstanding request for a service that hasn't been actioned. You should be able to identify when repeated service failure becomes a complaint.
- > Does the complainant have a representative? Do they have the complainant's consent to act on their behalf, and are you satisfied they are acting in the complainant's best interests?
- > Have you already considered and responded to the complaint?
- > Is the complaint within the scope of the authority's complaints procedure?
- > If so, which procedure should the complaint be considered under, and what are the timescales?
- > Do parts of the complaint concern another public sector organisation (e.g. Health Service)?

If the complaint will require a joint investigation with another organisation, you should decide who is going to take the lead, and what information you are able to share with each other. A joint investigation should not impact the complainant's experience.

Defining a complaint

We believe the best way to accurately define a complaint is to speak to the complainant. This will allow you to:

- > Check your understanding of the issue they want you to investigate and under which complaint process you should consider it.
- > Identify opportunities to resolve the complaint at the earliest opportunity.
- > Manage the complainant's expectations and answer any questions about the process.
- > Hear the complainant's view of what has gone wrong and how they say it has affected them.

Where possible, we recommend you define the complaint from the complainant's point of view. Include details of what the complainant thinks has gone wrong and how it impacted them.

It is good practice to write to the complainant setting out your understanding of their complaint, what will happen next, and when they can expect a response. This helps reduce the likelihood of a later complaint that you have not addressed their concerns.

If the complainant disagrees with your complaint statement, and you cannot reach agreement, you should ensure you have established what is at the heart of the complaint, and what the complainant wants. You should let the complainant know you will proceed on that basis.

Being customer focused

Define what the complainant says went wrong from their point of view and the impact they say it has had on them.

Being open and accountable

Be clear on timescales, and when the complainant will hear from you again.

Seeking continuous improvement

What are people complaining about? If you are receiving multiple complaints about the same issue it can be a sign of systemic failure.

Example:

Mrs X complains the council has failed to carry out a proper assessment of her needs. She says this has resulted in her being denied services she is entitled to.

Investigating a complaint

Once you are clear what the complaint is about you will need to gather information and evidence to reach a decision. You need to use this information to decide two things:

What happened?

What should have happened?

The information you need will depend on the nature of the complaint. Below are potential useful sources.

What happened:

- > The complainant or representative
- > Members of staff
- > Third parties
- > Case records
- > Correspondence (Emails/ Phone records/ Letters).

What should have happened:

- > The law
- > Government guidance/ circulars
- > Council policies and procedures
- > Case law
- > Professional bodies
- > The Ombudsman's view.

You then need to decide what information is relevant, reliable and important to the issue being complained about.

You may want to ask yourself:

- > Who/ where/ when is the information from?
- > Is it supported by other information?
- > Are there any gaps? Do you need more information?
- > Do you have enough information to make a decision that will stand up to scrutiny?

The Ombudsman investigates fault causing injustice. When reviewing conflicting information it is sometimes useful to ask whether what happened disadvantaged the complainant.

Being open and accountable

Let the complainant know who is investigating their complaint and how they can contact them.

Being customer focused

Keep the complainant informed at all stages of your investigation, especially if there is a delay.

Getting it right

Spend time planning the investigation, deciding how you will obtain the information you need.

Making and communicating a decision

“Your complaint, our decision”

When a person asks you to consider their complaint, it is your role to investigate the issue, taking into account all the available facts and evidence. Once you have done this, it is for you to make a final decision on the matter.

It is not always possible to make a decision beyond all reasonable doubt. The Ombudsman makes decisions **on the balance of probabilities**. We believe this is preferable to making no decision at all.

We believe there are three central questions when making a decision on a complaint:

- > Was the authority or its agents at fault? Should what happened not have happened?
- > If so, how exactly has this disadvantaged the complainant?
- > If so, what does the authority need to do to put things right?

Getting it right

Be clear what your decision is, and what you will do to put things right if something has gone wrong.

Being customer focused

Consider whether the complainant needs support understanding your decision, such as a meeting to discuss the findings.

Being open and accountable

Share the information you have considered with the complainant so they can understand your findings.

Acting fairly and proportionately

Ensure the complainant knows how they can challenge the decision if they remain unhappy.

Putting things right

If something has gone wrong tell the complainant how and when you will put it right.

A good decision letter consists of:

- > The statement of complaint (agreed with the complainant at the start of the process).
- > The steps you have taken to investigate the complaint.
- > What you have taken into account.
- > Your decision and reasons for it.
- > What will happen next: if action is to be taken, how, when, and by whom?
- > Any changes you will make to processes and procedures following the complaint.
- > If the complainant disagrees, how they can challenge the decision.

Putting things right

Put the complainant back in the position they would have been, had the fault not occurred

Our [Guidance on remedies](#) explains the principles underpinning how we remedy complaints

Putting things right for the complainant

Where possible, try to put the complainant back in the position they would have been, had the fault not happened.

- > Focus less on what went wrong, and more on the consequences. The injustice.
- > Consider whether the complainant has contributed to the consequences.
- > Take account of the complainant's views, but exercise your own judgement.
- > Any remedy should be appropriate and proportionate to the harm suffered.
- > Sometimes specific actions will be required (e.g a new assessment or appeal).
- > If there is no other way to put things right, consider a financial payment in line with our [Guidance on remedies](#).
- > Assess whether the complainant has been put to a lot of time and trouble pursuing the complaint.
- > ***If there is something to apologise for, do it.***

Putting things right

If you have found something went wrong, what has been the impact on the complainant? *That is what you need to put right*

Useful further reading

- > [Scottish Public Services Ombudsman's guidance on apologies](#)
- > [Your Council's Performance - Our interactive map to find local authority performance data](#)

Seeking continuous improvement

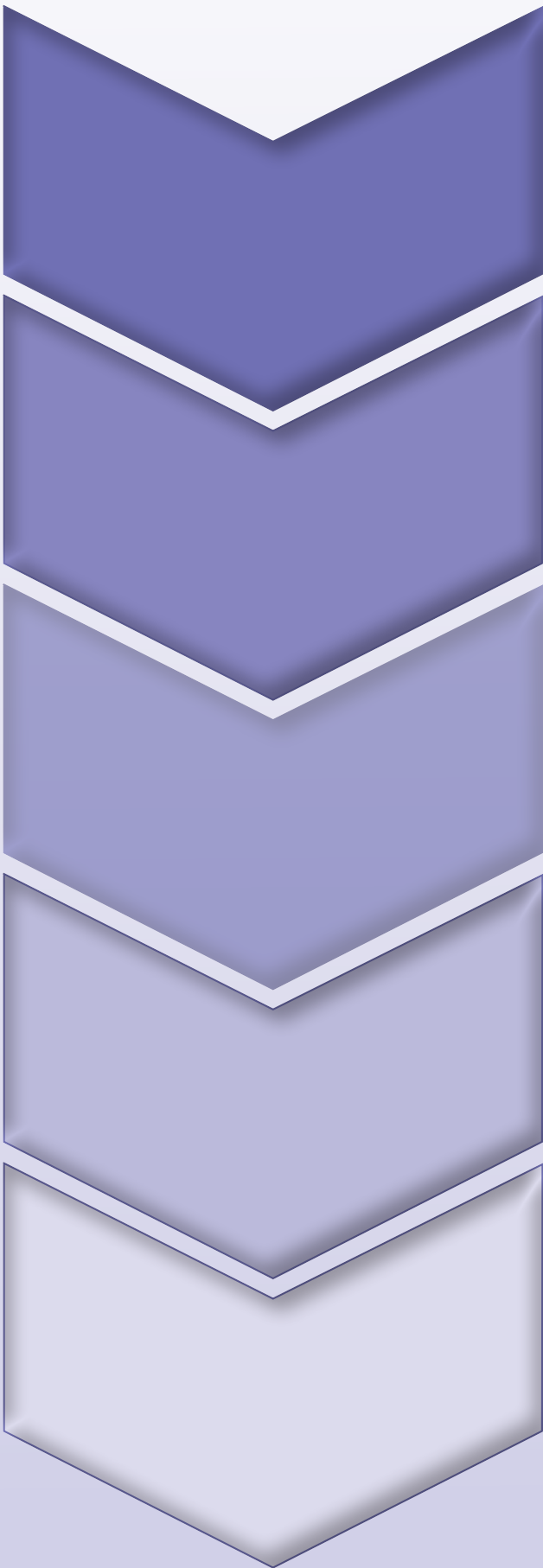
Make sure you have a mechanism in place to learn from complaints you uphold.

Making sure it doesn't happen again

Most complainants say to us they want to make sure what happened to them doesn't happen to someone else. Your complaints process should help you to find the root causes of problems and make improvements to systems and processes where they haven't worked properly. This can include changing policies and procedures, or training staff.

You can find examples of how we put things right in our [published decisions](#), and our [interactive map](#) of councils' performance, where we highlight the service improvements implemented by councils following our decisions.

Statutory complaints procedures



Children's social care complaints

The Children Act 1989 requires councils which provide children's services to set up a three stage complaints process. As a statutory procedure, the Children Act complaints process should be adhered to. People should be encouraged to give the council a chance to put things right before coming to us. And it follows that councils must make sure they administer the procedure properly and effectively, taking into account the extensive guidance available. Children, young people and their parents deserve a complaints system that ensures their voices are heard and issues are resolved fairly and swiftly.

What is covered under the statutory procedure?

The procedure covers complaints about services delivered to children and young people under Part 3 of the 1989 Act and specific functions under Parts 4 and 5 of the Act. This includes services to children in need or in care; about how the council applies to take a child into care; many complaints about fostering, special guardianship and adoption services and complaints about services to children leaving care.

The procedure exists to consider complaints not just by or on behalf of children, but from their parents, foster carers, special guardians, adopters and others who may have an interest in their wellbeing.

You can find further details about what is covered by following the link to the [regulations](#) and statutory guidance: [Getting the Best from Complaints](#).

What is excluded from the statutory procedure?

The procedure does not include complaints about child protection matters or how the council assesses families and prepares reports for the court in private proceedings (so-called Section 7 or 37 reports). These will be dealt with under the council's own complaints procedure. Councils should be clear which procedure they are using and why.

Councils may decide not to accept a complaint that is made late (i.e. over a year after the events complained of) but should not impose this restriction rigidly. It may suspend investigation of a complaint if there is ongoing court action or police investigations. If you do suspend an investigation, make sure you explain your reasons clearly to the complainant.

As with all complaints, we expect councils to assess each complaint on its own merits when deciding which process to follow.

Useful further reading

- > [Focus Report – Are we getting the best from children's social care complaints?](#)

Children's social care complaints

Early referral to the Ombudsman

'Getting the Best from Complaints' says that "...once a complaint has entered Stage 1, the local authority is **obliged to ensure that the complaint proceeds to Stages 2 and 3 of this procedure, if that is the complainant's wish**". However, the guidance also makes it clear that someone can complain to the LGSCO at any time.

[Annex 3 of 'Getting the Best from Complaints'](#) describes the circumstances in which a council can agree to a complainant making an early referral to us. This can usually only happen if:

- > There has been a robust Stage 2 report upholding all of the complaint.
- > The majority of the complainant's desired outcomes have been met.
- > Both parties agree to the referral.

We cannot accept complaints, including early referrals, from councils. If the criteria in Annex 3 is met, and you agree to the early referral, you should write to the complainant advising them to complain to us. You should also explain what early referral criteria has been met.

We then have to decide whether to accept the early referral or insist the procedure is completed. We might agree to consider a complaint before stage three where, for example:

- > We consider the relationship between the council and complainant has broken down to the extent that the complainant has no faith in the process.
- > The complaints process cannot possibly deliver the only outcome the complainant wants (for example, the return of a child who has been taken into care or a ruling that abuse has not taken place). In this instance we may prevent further delay by making a decision on the appropriate route to seek redress.
- > The complaints process has gone so far off track (for example because of unacceptable delay) that to continue with it risks compounding the complainant's potential injustice.

Best practice

To ensure you are getting the best from the Children Act complaints procedure:

> **Follow the process**

The process is statutory so councils should follow the guidance and not depart from it without good reason. Once the process has started, the complainant has a right to have their complaint considered at each stage. It is not for the council to decide stage three is not in the person's best interests.

> **Choose the appropriate procedure**

Ensure from the outset that the complaint procedure is appropriate in the circumstances of the complaint. Explain in writing how the complaint is being dealt with and the right to approach the LGSCO if the complainant is unhappy with the outcome.

> **Don't delay**

The statutory timescales are designed to ensure complaints are handled effectively, fairly and swiftly throughout the process. Delays can happen at each of the three stages, but also moving from one stage to another. Building in additional stages, such as meetings, can also add an unnecessary delay. You should ensure any additional stages do not result in such delays.

> **Make it a seamless service**

A complaint should be progressed in as seamless a way as possible. Those complaints which involve different parts of the council should not require the complainant to make multiple complaints to different areas.

> **Look for a swift resolution**

Try to resolve a complaint at every stage, but don't allow such attempts to delay or disrupt the statutory procedure. If faults on the part of the council are realised at any stage, seek to remedy any injustice caused when they arise. Some complaints do not need to be investigated at great length, even though they have to go through the whole process – make sure that stage two investigators understand that investigations should be proportionate.

> **Early referral to the LGSCO?**

We will continue to consider complaints brought early to us on a case by case basis. We are unlikely to accept early referrals from councils except in the circumstances set out in Annex 3 of the statutory guidance.

Children's social care complaints

Learning from Children's complaints

Section 5 of Getting the Best from Complaints details the reporting requirements for children's social care complaints. Every council must formally monitor its handling of children's social care complaints. This is to ensure councils can demonstrate their compliance with the regulations and how the learning from complaints has led to service improvement and contributed to the council's future planning.

Councils must keep an ongoing record of:

- > All complaints made under the statutory procedure.
- > The outcome of each complaint.
- > Whether the statutory timescales were kept to.

The council should also compile an annual report. The report should include the above, and also:

- > The number of complaints at each stage and any that were considered by the LGSCO.
- > Which customer groups made the complaints.
- > The types of complaints made.
- > Details about advocacy services provided under these arrangements.
- > Learning and service improvement, including changes to services that have been implemented and details of any that have not been implemented. A summary of statistical data about the age, gender, disability, sexual orientation and ethnicity of complainants.

- > A review of the effectiveness of the complaints procedure.

The annual report should be presented to staff, the relevant committee and be made available to anyone who wishes to see it.

The council's reporting and monitoring procedures should allow line managers to have sight of the learning from complaints and for complaints to be a key pillar in the council's performance monitoring.

Example:

The council said there was nothing to be achieved by a stage two investigation and it did not have the child's consent to do so. It is not for the council to decide what can or cannot be achieved at stage two. If a person asks for their complaint to be considered at stage two the council must do so. The council did not need the child's consent to do this.

Example:

Ms A complained about the content of an assessment of her children carried out by a social worker. This was for a court to decide issues of residency and contact.

This complaint is not covered by the Children Act procedure and, because it relates to evidence for court, the Ombudsman cannot investigate either the report or the way the council has considered Ms A's complaint about it.

Adult Social Care complaints

Complaints about Adult Social Care services are governed by [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#). There is also accompanying guidance: [Listening, responding, improving: a guide to better customer care](#).

These regulations say each council must:

- > Deal with complaints efficiently.
- > Properly investigate each complaint.
- > Offer assistance to complainants to enable them to understand the procedure and obtain advice if needed.
- > Respond to each complaint in a timely and appropriate way.

It is for the council and complainant to agree how the complaint will be handled, the likely duration of the investigation and when the complainant can expect to receive a response.

The regulations say the council should investigate a complaint in a manner it considers will resolve the matter speedily and efficiently, reaching a decision as soon as reasonably practicable.

It is not for the Ombudsman to determine how many stages are involved in the process. The council's framework should be clearly published, and compliant with the regulations. It should be tailored to the complaint and the needs of the individual.

The regulations also lay out how the council should report on adult social care complaints. They say the council should prepare an annual report which must show the number of complaints:

- > Received
- > Upheld
- > Referred to the Parliamentary and Health Service Ombudsman and/ or Local Government and Social Care Ombudsman.

The report should summarise the subject matter of complaints received, the way they were handled and what action has been or will be taken in response to the findings.

The council should ensure the report is available to any person on request.

Working with others

Many adult care services will be delivered in partnership with health authorities. It is vital that different organisations work together to deliver seamless services, this includes complaint handling. The complexity in which joint services are often delivered means complaining about these services can be confusing and time consuming. We have set up a joint working team, with the Parliamentary and Health Service Ombudsman, to investigate complaints spanning both sectors.

Adult Social Care complaints

Many organisations have found it useful to agree a protocol for handling joint complaints. This will identify which organisation will take the lead on the complaint and ensure:

- > Each organisation knows their responsibilities.
- > A single agreed point of contact for complainants.
- > Effective communication between complaints managers from different organisations.
- > Capture learning points for each organisation.

No matter what local arrangements you have in place with health partners, the council remains responsible for the social care elements of services and complaints. Care services are often delivered by third parties on behalf of the council. You should ensure you follow the guidance in the next chapter when commissioning and monitoring these services.

Useful further reading

- > [Creating a learning culture in social care- how we can learn from local authority complaint reports.](#) – Healthwatch, August 2019
- > [Quality Matters](#)
- > [Joint Working Team Focus report](#)
- > [Joint complaint handling protocol](#)



***Monitoring
and learning
from
complaints***

Third party complaint handling

Legal and policy background

Councils frequently provide local public services by arrangement with a third party partner or external commercial provider. The law says the Ombudsman can treat the actions of third parties as if they were actions of the council, where any such third party arrangements exist (Local Government Act 1974, section 25(6) to 25(8)). This means **councils keep responsibility for third party actions**, including complaint handling, no matter what the arrangements are with that party.

Contract or other agreements

- > The processes for dealing with complaints from members of the public and disputes between the council and the provider, should be clearly differentiated.
- > Councils should include clear arrangements for complaint handling in any contract or agreement under which its partners provide public services.
- > The arrangements should:
 - Clearly agree how the council or its partner will handle complaints regardless of who receives them; who is responsible for telling citizens about the arrangements and when; who will be responsible for responding to them, and what procedure to use.
 - Be consistent with any statutory requirement (e.g. timescales for children's social care complaints).
 - Reflect the nature of the contract. For example, a large care provider may have resources to manage its own complaints procedures, but a smaller, single care home business may not.

- Be clear about when the council expects a partner to channel complaints from members of the public to a complaints procedure and when other channels are more suitable. For example:
 - Most complaints about parking or moving traffic Penalty Charge Notices would be more suitable for the statutory representations and appeal procedure.
 - Complaints about legal action are best dealt with by the court.

Handling complaints

- > Councils and their partners should agree what the complaints procedures will be.
- > Where councils agree third parties will respond to complaints on their behalf, they should agree appropriate arrangements to oversee, agree and quality check those responses. We will regard a response from the council's partner as that of the council, so you should be confident the partner is speaking with your voice.
- > Complaints about service or funding levels and policy need to be addressed by the council, not a partner.
- > If someone has completed a partner's complaints process, we would not expect them to go back through the council's complaint process. A council is responsible for a partner's actions, including complaint handling. The council will wish to know about complaints, both for monitoring the contract or agreement (see below) and so it can suggest ways to resolve them where appropriate.

Third party complaint handling

- > The agreed procedures should be easy for members of the public to understand, simple to use and in no way deter them from complaining.
- > Most complaints procedures have two or three stages. The number of stages should be minimised.
- > The procedure should make clear:
 - Who is responsible for managing each stage.
 - Who is responsible for remedying complaints, and,
 - How to signpost complainants to the next stage (including, ultimately, the Local Government and Social Care Ombudsman) if they remain unhappy.
- > Councils and their partners should ensure all their staff know the arrangements and what their role is in carrying them out.
- > Councils and their partners should ensure they learn from complaints, both about what works well and what needs improving. The arrangements between them should include a way to do this.
- > Partners may be inexperienced in complaint handling. Councils may want to train partners to ensure good quality complaint responses. The Ombudsman can support councils' arrangements with their partners through its [training in complaints handling](#).

Example of third party complaint monitoring from one council

All contracted providers must:

- > Submit a monthly return with summary information about each complaint, its outcome and the lessons learnt
- > Risk assess all complaints and notify the Council immediately of any medium or high risk complaints
- > Comply with a Quality Standards Assessment in which Adult Social Care Contracts Officers monitor complaints and compliments as a measure of performance

Monitoring and Training

- > How complaints are dealt with can be a useful measure of contractual performance.
- > Councils should decide how they oversee the effectiveness of complaints arrangements and what data collection and reporting they need. The type and frequency of information required will depend on the nature and scale of the contract or agreement. The identity of complainants should not normally be disclosed.
- > Complaint monitoring arrangements should be decided with partners at the outset.

Reporting on local complaints

You should report on your own complaint handling performance at least annually and make this information available to the public. In our view this means you should make these reports easily accessible online in the interests of openness and transparency.

Too often, the discussions around complaints centre on the simplistic notion of numbers received. We believe reporting should focus on the learning from complaints, and on implementing the recommendations for improvements that help prevent the same thing going wrong again.

Annual complaint reports should cover:

- > The learning from complaints.
 - Specific actions the council has taken in response to complaint findings (e.g service improvements).
 - Recommendations for further actions to address underlying issues.
 - > Complaints received by service area and how they were received (e.g phone, email, online, face to face).
 - > The number of upheld complaints for each service area, at each stage, and how they compare to previous years.
 - > Your council's performance against your own complaints timescales and statutory timescales for each service area.
 - > The complaints performance of third parties providing services on behalf of the council.
- > Your LGSCO annual letter and your progress against the agreed service improvements.
 - To support complaint reporting we send councils an annual letter, looking at their complaint performance for the year. We also publish council performance on our [Interactive Map](#) so you can see how you and other authorities are performing.

Reporting on Ombudsman findings

Section 5/ 5A of the Local Government and Housing Act 1989 places a requirement on every council's Monitoring Officer to prepare a formal report on all Ombudsman complaint decisions. We support a flexible approach to how councils discharge this duty as long as the intent is fulfilled in some meaningful way, and a council's performance in relation to Ombudsman investigations is properly communicated to elected members. As a guide, we suggest:

- > Where we have made findings of fault in regard to routine mistakes and service failures, and you agree to remedy the complaint by implementing our recommendations, the duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. In a small authority this may be adequately addressed through an annual report on complaints to members, in a large County or Metropolitan authority this might need to be more frequent.
- > The Monitoring Officer should consider whether the implications of an investigation should be individually reported to members where that investigation has wider implications for council policy or exposes a more significant finding of maladministration. Examples could include:
 - The maladministration is, or has been, ongoing and therefore putting the council or authority at risk of further maladministration.
 - The large scale of the fault or injustice.
 - The reputational or financial risk arising.
 - The large number of people affected.
- > In the unlikely event that an authority is minded not to comply with the Ombudsman's recommendations following a finding of maladministration, the Monitoring Officer should report this to members under section 5 of the Local Government and Housing Act 1989. This is an exceptional and unusual course of action for any council or authority to take and should be considered at the highest tier of authority.
- > If our finding of maladministration is issued as a public interest report (under section 30(1)) of the Local Government Act 1974), there is a specific requirement for that finding to be reported to a council's or authority's members, and for a formal response to that finding to be sent to the Ombudsman. The council or authority's response must be sent to the Ombudsman within three months setting out the action that they have taken, or propose to take, in response to the report.

The role of councillors

Councillors have an important dual role signposting and pursuing complaints on the behalf of members of the public, and scrutinising the delivery of local services. Many local authorities already use our annual letters, complaints statistics and interactive map to report to scrutiny committees and other oversight functions.

Councillors may wish to consider these key lines of enquiry in their scrutiny role:

Complaint handling

- > How quickly does your authority respond to complaints?
- > How quickly does your authority look to put things right when there is evidence of fault?
- > How does your authority make sure all partners it commissions services from also have effective complaint handling processes?
- > Does your authority's complaints process clearly signpost to the Ombudsman?

Complaints upheld:

- > Does your authority uphold particularly high or low numbers of complaints in particular service areas?
- > How does your uphold rate compare to the number of complaints made to your authority?

Our decisions:

- > Do we refer a high number of complaints back to your authority to consider first? This may show that people are not being properly signposted to the local complaints process.
- > Uphold rates show the proportion of investigations in which we find some fault and can indicate problems with services. Using our [interactive map](#) you can compare your uphold rate with that of similar authorities.

Putting things right:

- > How often does your authority offer a suitable remedy for a complaint before it comes to us? This is a good sign that your authority is able to accept fault and offer appropriate ways to put things right for people.
- > Use the interactive map to look at the service improvement recommendations your authority agrees to make following our investigations. How are they being implemented, and their impact monitored?
- > What is your authority's compliance rate? This indicates our satisfaction with the evidence your authority has provided to implement a recommendation it has agreed to.

We have published a range of subject specific questions on our [website](#) that councillors could ask their local authorities on different topics when presented with a report.

The role of councillors

We have partnered with the Local Government Association on a workbook and online training for councillors on the complaints process. This training and workbook:

- > Take councillors through the complaints process and their role in it.
- > Provide an overview of the ombudsman and what type of complaints they deal with.
- > Direct councillors to sources of information for monitoring complaints.
- > Explain councillors can to use complaints to drive service improvement.
- > Signpost sources of information for complaints that are outside your council's remit.

Example:

A county council's Governance and Ethics Committee decided to scrutinise all Ombudsman complaints where we found fault to ensure the lessons were learned properly.

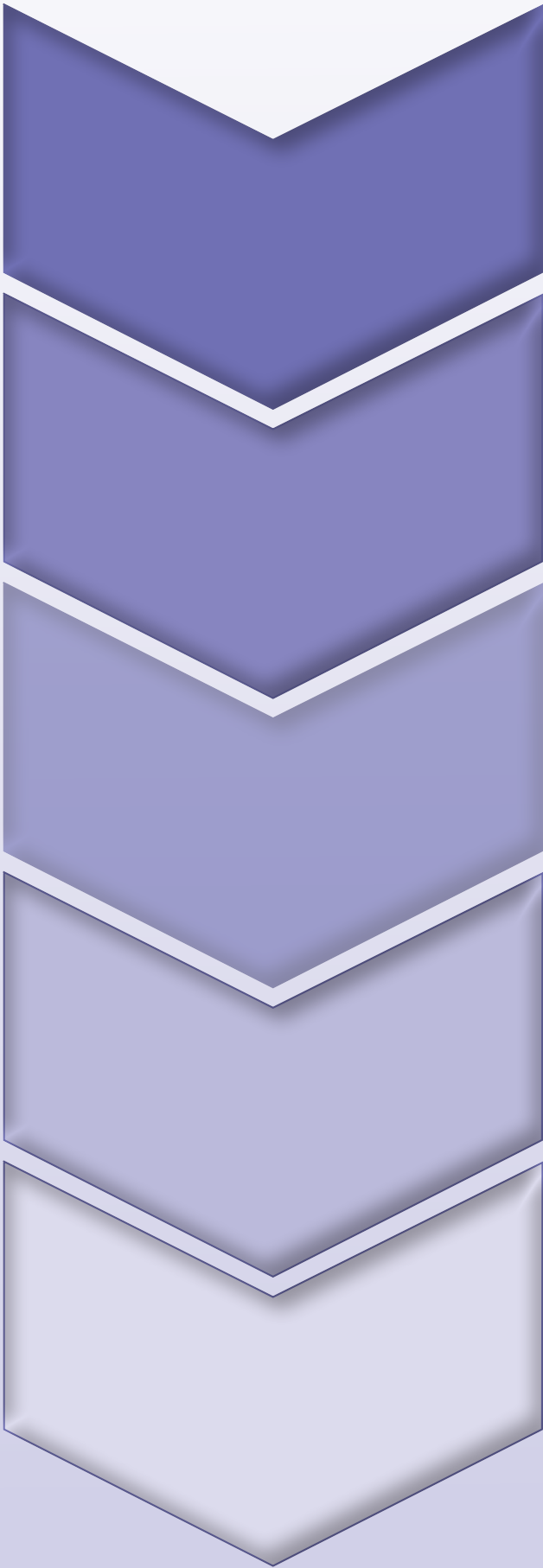
Example:

In response to an Ombudsman public report, councillors subjected the report to intensive scrutiny, recommending officers go beyond the remedies we had recommended.

Useful further reading

- > [Councillor workbook](#)
- > [Online training](#)

Appendices



Unreasonable and persistent complainants

In a minority of cases people pursue their complaints in a way that is unreasonable. They may behave unacceptably, or be unreasonably persistent in their contacts and submission of information. This can impede investigating their complaint (or complaints by others) and can consume significant amounts of resource. This can occur either while their complaint is being investigated, or once an organisation has finished the complaint investigation.

Our website contains [guidance on managing unreasonable complainant behaviour](#):

- > Have a policy – a considered, policy-led approach helps staff to understand clearly what is expected of them, what options are available, and who can authorise these actions.
- > You should be satisfied the complaint is being or has been investigated properly and any decision reached is the right one.
- > Ensure the complainant has been communicated with adequately and they are not now providing significant new information.
- > If taking action to apply restricted access, write to the complainant with a copy of your policy, explaining why the decision has been taken, how long any limits will last, and how the decision can be reviewed.
- > Keep adequate records to show when a decision has been taken, and the reasons for the decision.
- > Set a specified review date for any restrictions. You may also agree actions you expect of the complainant which you will use as a basis for the review.

Relations between organisations and complainants sometimes break down badly while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In these circumstances there may be nothing to gain from following through all stages of the organisation's complaints procedure. In these circumstances, we may, exceptionally, be prepared to consider complaints before complaints procedures have been exhausted.

A complainant who has been treated as behaving unreasonably may make a complaint to us about it. We are unlikely to be critical of the organisation's action if it can show that it acted proportionately and in accordance with its adopted policy.

Useful further reading

- > [LGSCO policy on unreasonable complainant behaviour](#)
- > [New South Wales Ombudsman manual for handling unreasonably persistent complainants](#)

How to refer people to the Ombudsman

Below are the correct contact details for referring people to the Ombudsman, and the wording we expect a council to use when referring to us:

Text for signposting someone to the Local Government and Social Care Ombudsman

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 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

Telephone: 0300 061 0614

Opening hours

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

Local Government and Social Care Ombudsman

PO Box 4771
Coventry
CV4 0EH

Phone: 0300 061 0614

Web: www.lgo.org.uk

Twitter: [@LGOmbudsman](https://twitter.com/LGOmbudsman)