



**Horsham
District
Council**

Part 5D of the Horsham District Council Constitution

YOUR GUIDE TO THE COUNCIL'S PROCEDURE FOR HANDLING COMMENTS, REPRESENTATIONS, CRITICISMS OF POLICY AND FORMAL COMPLAINTS

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1. INTRODUCTION

- 1.1 The public is entitled and encouraged to contact the Council and to receive replies. Contacts may comprise comments, representations on planning applications, criticisms of a policy which the Council has adopted, information useful to the Council, requests for services or formal complaints.

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- 1.2 However hard the Council tries properly to respond to the wishes and aspirations of the public it will fail sometimes to satisfy those wishes or aspirations. Sometimes the views of a member of the public and the Council cannot coincide because, for example, the Council is compelled to act in a certain way or its perception of the wider public interest may be different from a resident's personal considerations. Nevertheless, there are occasions when the Council gets it wrong. Then a review will be undertaken in an open and honest way because the Council cares about providing high quality services and wishes to respond positively.
- 1.3 This guide includes a Council-wide system for responding to formal complaints. It is intended:
- to enable you to know how to complain and to understand the way in which your complaint will be handled
 - to enable staff to be confident about what to do when they receive a complaint
 - to ensure that everyone is treated fairly
 - to enable the Council to learn and to see how services can be improved.
- 1.4 In particular, this guide identifies what **is** a complaint and what **is not** a complaint. It explains how both formal complaints and those matters which are comments, representations, issues for other bodies, criticisms of Council policy, information for the Council's use, requests for services or information or for explanations of decisions are handled.
- 1.5 Complaints about district or parish councillors are dealt with under a separate statutory procedure and not under this procedure. For more information contact the Council's Monitoring Officer or visit Horsham District Council's website at <http://www.horsham.gov.uk/council/members/1114.aspx>

2. WHAT IS A COMPLAINT?

- 2.1 *A complaint is an expression of dissatisfaction about the Council's action or lack of action or about the standard of a service, whether the action was taken or the service provided by the Council itself or a person or body acting on its behalf.*

3. WHAT IS NOT A COMPLAINT?

3.1 The following are **not** complaints:

- comments, favourable or unfavourable, where you do not wish to take the matter further
- reports of a single breach of a service standard, e.g. one missed collection of a dustbin
- "statutory" representations in connection with planning applications, licensing applications, local development schemes and documents, or formal consultation exercises
- representations concerning matters where you have a right to appeal, e.g. to the Magistrates' Court or to the Secretary of State, against a decision which the Council has taken or where a right to appeal has been exercised by someone else
- concerns regarding matters which are the responsibility of another body, e.g. highways (West Sussex County Council) or health matters (NHS)
- criticisms of a policy adopted by the Council
- the supply of information concerning breaches of regulatory control, e.g. breaches of planning control or fly tipping
- requests for services, an explanation of decisions taken or for information under, e.g. the Freedom of Information Act 2000 or the Data Protection Act 1998.

4. SPECIAL POINTS TO NOTE

Complaints alleging illegality

- 4.1 Where a complaint alleges unlawful or illegal conduct by the Council you should contact the Council Solicitor directly.
- 4.2 Formal complaints will be acknowledged within three working days and a fuller reply given within 10 working days.

Formal complaints alleging financial impropriety

- 4.3 Where a complaint alleges financial impropriety by the Council you should contact the Director of Corporate Resources directly.

- 4.4 Formal complaints will be acknowledged within three working days and a fuller reply given within 10 working days.

Formal complaints involving legal claims or proceedings

- 4.5 Where a complaint involves a legal claim or proceedings you should contact the Council Solicitor or in the case of personal injury or motor claim the Council's Insurance Officer.
- 4.6 Formal complaints will be acknowledged within three working days and a fuller reply given within 10 working days.

Formal complaints against the Chief Executive

- 4.7 Complaints concerning the conduct of the Chief Executive personally should be made directly to the Council's Chairman.
- 4.8 Formal complaints will be acknowledged within three working days and a fuller reply given within 10 working days.
- 4.9 Formal complaints will be acknowledged within three working days and a fuller reply given within 10 working days.

5. HOW COMMENTS, REPRESENTATIONS AND CRITICISMS OF POLICY ARE HANDLED

How to make comments etc.

- 5.1 Comments, representations and criticisms can be made face to face, on the telephone or in writing including e-mail, unless there is a specified procedure. Please use the feedback form included in the Council's guide to comments, compliments and complaints or online at <http://www.horsham.gov.uk/council/3144.aspx>
- 5.2 Single instances of a breach of a service standard, e.g. a missed dustbin collection which can easily be remedied are best dealt with by telephone. Certain statutes require representations to be made in writing. Representations in connection with planning or licensing applications should always be made in writing as these will feature on the public register. Generally it is better that comments, representations and criticisms are always made in writing whether by post, fax or e-mail as this provides an indisputable record.

Where to direct comments, representations and criticisms of policy

- 5.3 Comments, representations and criticisms of policy should be addressed as follows:

Comments & Suggestions

- 5.4 Comments and suggestions can be made to any member of staff who will pass them on to the relevant Head of Service. He or she will examine any comments to see whether the service can be altered or improved. An online suggestions form is available on the Council's website at <http://www.horsham.gov.uk/council/3144.aspx> if this would help you.
- 5.5 Acknowledgement will be made within three working days.

Statutory Representations

- 5.6 Many of the Council's regulatory functions enable the public to comment on applications, e.g. for planning permission or licences. Your representations will be passed to the relevant case officer for consideration as part of the determination of the application.
- 5.7 Representations concerning planning or licensing applications will be acknowledged within three working days. Responses to consultation exercises will not generally be acknowledged.

Where there is a right to appeal

- 5.8 The determination of certain applications can give rise to a statutory right of appeal. Unsuccessful applicants for planning permission or for certain licences have a right of appeal to the Secretary of State (planning matters) or the Magistrates Court (licensing matters generally). Where there is a right of appeal, the disappointed applicant will be expected to use this process. The appeal process often allows other people such as objectors to participate and where this is available; objectors will be expected to follow this route. If you wish to participate in any appeal process, you should contact the appellate body directly, details of which are available through the Council's case officer.

The responsibility of other bodies

- 5.9 The Council does not have responsibility for all local services in its area. Highways, social services, education and trading standards are for example the responsibility of West Sussex County Council. Social housing is in the hands of registered social landlords such as Saxon Weald Homes. Water supply and sewage disposal are the responsibility of Southern Water principally. Where possible the Council will provide information or an appropriate contact.

Criticism of the Council's policies

- 5.10 In many areas the Council may and in some cases must adopt a policy. This may, for example, relate to the use of wheeled bins for waste collection or the letting of a contract to an outside provider or the setting the level of Council Tax. Policies are made or approved by Councillors acting together as the Council or the Cabinet depending upon the Council's constitutional arrangements. You should contact the relevant Head of Service (contact details are available from the Complaints & Information Officer on 01403 215470). Your criticisms of such policies will be passed to the responsible Cabinet Member.
- 5.11 Criticisms will be acknowledged within three working days and a further reply given within 10 working days.

6. GIVING INFORMATION TO THE COUNCIL REGARDING BREACHES OF PLANNING CONTROL ETC.

- 6.1 Allegations of breaches of regulatory controls for example breaches of planning control, failure to comply with licence conditions, noise nuisance or fly tipping should be made to the enforcement officers in the relevant departments.
- 6.2 Information supplied will be acknowledged within three working days and information on progress will be given if requested.

7. REQUESTS FOR INFORMATION, ETC.

- 7.1 Requests for information may be made for a host of different reasons and in certain instances under statute, for example the Freedom of Information Act 2000. You should contact, in the first instance, the Council's Complaints & Information Officer on 01403 215470 or email foi@horsham.gov.uk.

- 7.2 The information requested will be supplied within 10 working days although this may be longer if there is a statutory timetable which so allows.

8. FORMAL COMPLAINTS

Generally

- 8.1 Where a matter is sufficiently serious to accord with the definition of a complaint and cannot be resolved through informal contacts or discussion, your expression of dissatisfaction will be treated as a complaint. For complaints other than those relating to Councillors or under the Freedom of Information Act 2000 and associated legislation (please see paragraph 7.1 and 10.1) the Council follows a three stage initial process. At each stage the matter will be reviewed by a person unconnected with the handling of the matter at an earlier stage. A fourth external process may be available.

Making formal complaints

- 8.2 Formal complaints can be made face to face, on the telephone or in writing including e-mail. It is better for complaints to be made in writing as this provides an indisputable record. Please use the appropriate feedback form available online at <http://www.horsham.gov.uk/council/3144.aspx> or from the Council Offices. Please call 01403 215470 to obtain a copy or call in at any of our Offices.

Responsibility

- 8.3 The responsibilities for acknowledging, corresponding, attempts to resolve the formal complaint, keeping you informed and tracking your complaint are those of the relevant Director. Where the Chief Executive has become involved or where the Local Government Ombudsman has made recommendations for action the responsibility for taking consequent action will be that of the relevant Director.

The Stages

Stage 1

- 8.4 Complaints should be made in the first instance to the Case Officer in the relevant department or you can contact the Complaints & Information Officer whose address is at the end of this Guide.

- 8.5 Complaints will be acknowledged within three working days and a fuller reply given within 10 working days. Details of the receipt of the complaint, the action taken and the lessons learned or to be learned will be logged.

Stage 2

- 8.6 If the complaint is not resolved by the Case Officer you may ask for the matter to be reviewed by the relevant Head of Service or Director.
- 8.7 Complaints will be acknowledged within three working days and a fuller reply given within 10 working days.

Stage 3

- 8.8 If the complaint is not resolved by the Head of Service or Director you may ask for the matter to be reviewed by the Chief Executive.
- 8.9 Complaints will be acknowledged within three working days and a fuller reply given within 10 working days.

Confidentiality and confidence

- 8.10 If you make a formal complaint your identity will be made known only to those who need to consider the complaint and will not be revealed to any other person except your local councillor (unless you object), or made public. However, your identity may have to be disclosed where your complaint involves third parties or where court or disciplinary proceedings are contemplated. Anonymised reports on complaints will be made to councillors and senior officers on a regular basis.
- 8.11 All complaints will be dealt with impartially, objectively and professionally. You need not fear adverse treatment because you have made a complaint.

How formal complaints are investigated

- 8.12 The Council follows the Ombudsman's guidance on good investigative practice.

9 THE OMBUDSMAN

- 9.1 If the complaint is not resolved you may refer the matter to the independent Local Government Ombudsman (The Commission for Local Administration in England) whose details are listed under Addresses at the end of this guide).

10 **COMPLAINTS AGAINST COUNCILLORS**

- 10.1 Complaints about district or parish councillors are dealt with under a separate statutory procedure and not under this procedure. For more information contact the Council's Monitoring Officer or visit Horsham District Council's website at <http://www.horsham.gov.uk/council/members/1114.aspx>

11. **COMPLAINTS ABOUT THE COUNCIL'S RESPONSE TO A FREE DOM OF INFORMATION REQUEST**

- 11.1 If you have not received the information you asked for, or if some of it has been withheld, you can request that the Council's decision be reviewed. The review will be carried out and a response will be made within twenty working days of the Council's receipt of your complaint.
- 11.2 If you still remain dissatisfied with the response you can complain to the Information Commissioner - details available at: https://www.ico.gov.uk/Global/contact_us.aspx
Further information is available on the Council's freedom of information webpages at <http://www.horsham.gov.uk/council/7914.aspx>

12. **WHAT THE COUNCIL CAN DO IN RESPONSE TO A FORMAL COMPLAINT**

If the formal complaint is not upheld

- 12.1 If your formal complaint is not upheld, you will be informed of the Council's view, which should set out clearly, fully and sympathetically the reasons for the decision. If there is another stage to which the matter can be taken, you will be told of the options open to you.

Putting things right

- 12.2 This complaints system is available to put things right if they have gone wrong. The Council aims to fit the remedy to the harm or injustice to you. *Compensation is not payable unless there has been maladministration by the Council causing injustice to you.* Money is not the only, or necessarily the best remedy in every case. An apology will normally be appropriate.

12.3 Where the Council's maladministration has caused injustice to you the Council can consider the following:

- An apology
- Specific action to meet the nature of the complaint
- Specific action to mitigate the injustice
- Payment of sums due but not paid
- Reimbursement of actual quantified loss
- Payment for loss of value
- Payment for distress
- Payment for time and trouble in pursuing the complaint

but will take into account:

- Your own actions
- Any delay in pursuing the complaint
- It is not normally reasonable for the Council to reimburse professional fees
- The Council is entitled to offset against any payment sums due to the Council

12.4 Compensation can only be awarded by the Chief Executive acting in consultation with the Council's Solicitor and the Director of Corporate Resources.

13. Unreasonably persistent complainants

Horsham District Council values all kinds of customer feedback and complaints are treated seriously and recognised as a way for the Council to identify and implement service improvements. The Council is also accountable for the proper use of public money and must ensure that money is spent wisely and achieves value for complainants and the wider public.

The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them. As part of this service the Council does not normally limit the contact complainants have with the Council.

However there are a small number of complainants who, because of the frequency of their contact with the Council's offices interfere unreasonably with the Council's operation or, hinder the Council's consideration of their or other people's, complaints. We refer to such complainants as 'unreasonably persistent complainants' and, exceptionally, the Council will take action to limit their contact with our offices.

The decision to restrict access to our offices will be taken at senior management level or above and will normally follow a prior warning to the complainant. Any restrictions imposed will be proportionate and appropriate. The options we are most likely to consider are;

- Requesting contact in a particular form (for example, letters only)
- Requiring contact to take place with a named officer
- Restricting telephone calls to specified days and times and/or
- Asking the complainant to enter into an agreement about their future contacts with us.

In all cases where the Council decides to treat someone as an unreasonably persistent complainant, the Council will write to explain why it believes their behaviour falls into that category, what action the Council is taking and the duration of that action. The Council will also tell explain how the decision can be challenged. If the Council decides to continue to treat someone as an unreasonably persistent complainant and it is still investigating their complaint six months later, the Council will carry out a review and decide if restrictions will continue.

Where a complainant whose case is closed persists in communicating with us about it, we may decide to terminate contact with that complainant about the matter. In such cases we will read all correspondence from that complainant, but unless there is fresh evidence which affects our decision we will simply acknowledge it or place it on the file without acknowledgement.

Where a complaint has exhausted all routes for investigation and is closed and you persist in communicating with the Council about it, we may decide to terminate contact with you. In such cases, the Council will read all correspondence from you, but unless there is fresh evidence which affects its decision on the complaint it will simply acknowledge it or place it on the file with no acknowledgement

New complaints from people who have come under the unreasonably persistent complainants policy will be treated on their merits.

This policy is in line with the Local Government Ombudsman's guidance on unreasonable persistent complainants and unreasonable complaint behaviour dated April 2009.

Full details of the way in which Council deals with unreasonable persistent complainants may be found in Horsham District Council's policy and procedure on dealing with unreasonably persistent complainants and unacceptable behaviour.

14. ADMINISTRATION , FURTHER INFORMATION & ADDRESSES

14.1 Administration of the Council's system for handling comments, representations, criticisms of policy and formal complaints is the responsibility of the Chief Executive through the Council Solicitor, the Director of Corporate Resources and the Complaints & Information Officer. Further information concerning this procedure can be obtained from

Complaints & Information Officer
Legal Services
Horsham District Council
Park North
North Street
Horsham
West Sussex
RH12 1RL

Telephone:01403 215470
e-mail: yoursay@horsham.gov.uk
website: www.horsham.gov.uk

Copies of this document are available in large print, audio tape and translation upon request.

Addresses, telephone numbers and e-mail addresses

The Council's address for all correspondence is:

Horsham District Council
Park North
North Street
Horsham
West Sussex
RH12 1RL

website: www.horsham.gov.uk

Details of the Heads of Service and Directors are available from the Complaints and Information Officer on 01403 215470 email yoursay@horsham.gov.uk

The address for the Local Government Ombudsman is:

The Local Government Ombudsman
PO Box 4771
Coventry CV4 0EH

Tel: 0300 061 0614 or 0845 602 1983

Email: advice@lgo.org.uk

Web: www.lgo.org.uk

For advice on making a complaint, or to make a complaint over the telephone, please call the LGO Advice Team on 0300 061 0614 or 0845 602 1983. (Calls to 03 numbers will cost no more than calls to national geographic numbers (starting 01 or 02) from both mobiles and landlines, and will be included as part of any inclusive call minutes or discount schemes in the same way as geographic calls. Please note that calls may be recorded for training and quality purposes.) The Advice Team are available Monday to Friday from 8.30am to 5.00pm.