

Complaints, Data Protection Complaints, SAR and FOI Review Policy and Procedure

We use customer feedback to help us improve our services. The aim of this procedure is to:

- Make it easy for customers who are dissatisfied about a Council service to complain or ask for a review
- Treat all complaints and reviews fairly and consistently
- Resolve service issues in a timely fashion and at the initial point of contact wherever reasonably possible
- Review information provided in a timely and consistent manner
- Improve our services by listening to and acting on customer feedback

Our objective in relation to complaint handling and case reviews is to:

- Have a collaborative and co-operative approach towards resolving complaints or assessing reviews;
- Take collective responsibility for any shortfalls identified through complaints or review requests rather than blaming others; and
- Act within the professional standards for engaging with complaints and review requests as set by any relevant professional body.

What is a Complaint?

We define a complaint as any expression of dissatisfaction about the way in which the Council (including its staff and contractors) has provided a service for example delay, failure to provide a service, or staff behaviour.

Data Protection Complaints

We define a data protection complaint as any complaint where you consider that we have infringed data protection legislation because of the way we've handled your personal information (or the personal information of someone you are acting on behalf of). Some examples of this might include:

1. Used personal data for the wrong purpose
2. Shared data without permission
3. Failed to keep data secure
4. Kept data longer than necessary
5. Used inaccurate or outdated information
6. Sent unwanted marketing without consent

This does not affect your data protection rights (such as a right to request your personal data, or a right to object to how we process your data – these will be handled separately using the statutory procedures set out in legislation).

What is a Service Request?

We define a Service Request as a request for the Council's assistance with an issue or problem faced by a customer in an area falling within the Council's responsibility.

Requests for the Council's assistance with an issue or problem faced by a customer in an area falling within the Council's responsibility are service requests, not complaints.

We encourage all Council staff to work with customers to resolve any service issues as service requests in the first instance. This normally enables a quicker resolution than the Council's formal complaints process. A service request may, however, result in a complaint if we are unable to resolve the issue. **The Council may determine that a formal complaint should be dealt with as a service request, and in this instance will advise the customer accordingly.**

Waste Services

Except in extraordinary circumstances, the Council will treat any feedback about waste issues as a service request.

If the issue is not resolved after 3 service requests, the Council will escalate the matter to Stage 1 of its complaints process on the request of the customer, if not more than 3 months have passed since the date of the first service request.

How to Make a Service Request

There are a number of services you can request through our website <https://tunbridgewells.gov.uk/>.

Some of the most common service requests can be found at:

<https://tunbridgewells.gov.uk/bins-and-recycling/report-a-missed-bin>

<https://tunbridgewells.gov.uk/parking/pay-penalty-charge-notice>

<https://mkip-web.matrix.squiz.cloud/tw-dev/environment/noise-and-nuisance>

How to Complain

Customers can complain in these ways:

- On-line at <https://tunbridgewells.gov.uk/feedback-and-complaints/make-a-complaint>
- By email to complaints@tunbridgewells.gov.uk
- In person at the Amelia Scott, TN1 1AW where we will guide you through our on-line complaints process
- By telephone on 01892 554 077, or
- By post at Tunbridge Wells Borough Council, Town Hall, Mount Pleasant Road, Royal Tunbridge Wells, Kent TN1 1RS

The Complaints Procedures

Tunbridge Wells Borough Council has a two stage complaints procedure for services, and a one stage complaints procedure for data protection complaints.

The Council may determine that a formal complaint should be dealt with as a service request, and in this instance will advise the customer accordingly.

Service Complaints: Stage 1

- We may resolve service issues on first contact as service requests.
- If a customer asks us to, or we deem it necessary, we will deal with complaints at Stage 1 of our Complaints Procedure.
- Once submitted, we will acknowledge receipt of any complaint within **five working days of receipt**.
- Except in exceptional circumstances, we will not consider further information about the complaint once we have acknowledge receipt.

- The responsible Head of Service will investigate the complaint, and will ordinarily respond within **10 working days of the acknowledgement**.
- If the complaint is unusually complex or it will take time to gather the information required, we may extend the complaint deadline. We will contact you within the 10 working days to explain this, if this is the case.
- Any customer who is unhappy with the response at Stage 1 may request a review of their complaint by the Chief Executive at Stage 2.

Service Complaints: Stage 2

- Customers remaining dissatisfied with the Council's response at Stage 1 may contact the Performance and Governance Team for an independent investigation.
- Customers wishing to escalate their complaints to Stage 2 must explain why they want to take the matter further.
- The Council will only consider new information at Stage 2. We will not respond to the same things we have (in our exclusive opinion) already addressed at Stage 1 of the complaint.
- Where we reject a Stage 2 complaint as the complainant has not (in our opinion), included any new information, the complainant can submit their complaint to the Local Government and Social Care Ombudsman (see below).
- Customers must include all information materially significant to their Stage 2 complaints within their Stage 2 request. Except in exceptional circumstances, we will not accept further information submitted after we have acknowledged the complaint.
- We will acknowledge Stage 2 requests within **five working days** of receipt.
- The Chief Executive or one of the Council's Directors will normally respond to the Stage 2 complaint within **20 working days** of the acknowledgement.
- Any customer remaining dissatisfied with the response at Stage 2 of the Council's Complaints Procedure may take their complaint to the Local Government Ombudsman (LGO).

If at either stage we need more time to respond to your complaint, we will explain the reasons for the delay and notify you about when to expect a full response.

Service Complaints: Stage 3 – The Local Government and Social Care Ombudsman

The Local Government and Social Care Ombudsman (LGSCO) is an independent service set up by the Government to investigate complaints about Council services. The Ombudsman will not investigate most complaints until they have been through the Council's Complaints Procedure. If you remain dissatisfied with the outcome of your complaint at Stage 2, you can complain to the Ombudsman at <http://www.lgo.org.uk> or telephone 0300 061 0614.

Data Protection Complaints: Stage 1

Due to the nature of these complaints and the different legislation that is applicable, we use a different procedure for data protection complaints.

- We will acknowledge your data protection complaint within **5 working days** of receiving it. We may extend this to **20 working days** in particularly complex cases, or where identity verification is difficult.
- We may require you to verify your identity before we provide you with any response. Where we can, we will verify this through information we already hold, but we may require you to provide proof of identity with formal identification documents. Until we are satisfied that you are the data subject, we will not release any information to you, and our timescales for responding will be paused until we receive the information.
- Once we have verified your identity, the Data Protection Officer will start an investigation, and will aim to respond to you within **20 working days** of the acknowledgement.
- Occasionally, more time may be needed to fully investigate the circumstances, and the Data Protection Officer will let you know if there is a delay in sending you a response.
- There is no internal second stage for data protection complaints.

Data Protection Complaints: Stage 2 – Information Commissioner’s Office

If you are unhappy with the response of the Data Protection Officer, you can contact the Information Commissioner’s Office (ICO). We will include details of how to do this in our final response to you. You can make a complaint to the ICO at any time, but in most cases they will ask you to make a complaint to us first. You can make a complaint to the ICO at <https://ico.org.uk/make-a-complaint/> or telephone 0303 123 1113.

Information Reviews

Tunbridge Wells Borough Council provides information to customers through Freedom of Information Requests (FOIs) and through data rights requests such as Subject Access Requests (SARs). The Council must balance the interests of the individual with the interests of others, commercial confidentiality, and the public interest test. We will release as much information as we deem is fair, proportionate, and assists customers and residents to make informed decisions about themselves and about the actions of the Council.

We recognise that the release of information can often be complex and involve consideration of a range of interests and principles. Where you have made a request

for release of information, either through an FOI or a SAR, and you disagree with our reasoning for not releasing elements of the information you have requested, you can request a review of that decision.

The purpose of the review is to consider the original decision of the Council, based only on the information that is in scope of the original FOI request. This is to ensure that it is fair and proportionate. We will not consider new information as part of the review, nor will we reply to additional questions or issues raised.

Once you request a review:

- The Monitoring Officer (or someone on their behalf) will acknowledge your request **within five working days** of receipt of the request.
- A review of the information will take place and a response provided **within 20 working days**. This may be extended to **40 working days** in some circumstances.
- The Monitoring Officer may uphold the previous decision.
- Where the Monitoring Officer disagrees with the original decision, more information may be released to you. If this is the case, the Monitoring Officer will write to you with a timescale in which the Council will respond to the additional information release.
- Following this, any customer remaining dissatisfied may contact the Information Commissioner's Office.

Out of Scope - Complaints Procedure

Some issues fall outside the Council's complaints procedure, such as complaints for which there is an alternative right of appeal.

The Council will not respond to complaints where there is an alternative right of appeal. However we will let customers know if their complaints need to be dealt with in another way.

The Council will not consider complaints relating to an individual's obligation to pay council tax. Repeated demands relating to this issue may be treated as persistent and unreasonable (see section below). For more information on council tax liability, please go to our website [Obligation to Pay Council Tax explained](#).

Timescale for Making a Complaint or Requesting a Review

Complaints (including Data Protection complaints) must be made to us within 12 months of the date the incident being complained about happened, the date the person raising the complaint found out about it (whichever is the later date).

If a complaint is made to us after the 12-month deadline, we will consider it if:

- we believe there were good reasons for not making the complaint before the deadline, and/or
- it is still possible to properly consider the complaint.

A review request must be made within **40 working days** of the information being provided. We may consider a review after this time if we believe that:

- there were good reasons for not requesting a review before this time, and/or
- it is still possible to properly review the information.

If we do not see a good reason for the delay, or we think it is not possible to properly consider the complaint (or any part of it), or review the information, we will write to you to explain this. You can contact the LGSCO or the ICO if you are not happy with the decision.

Alternative Right of Appeal / Alternative Legal Remedy

The Council will not respond to complaints where there is an alternative right of appeal. Such matters include, but are not restricted to:

- Appeals against parking fines
- Appeals against planning application decisions
- Appeals against housing benefit decisions
- Reviews of homelessness decisions
- Reviews of Housing Register applications
- Fixed Penalty Notices

Complaints about Councillors

Complaints about Councillors are handled in a different way. Customers wishing to complain about a Councillor should contact the Council's Monitoring Officer. More

Unreasonable Behaviour and Vexatious Complaints

Tunbridge Wells Borough Council is committed to dealing with all complaints fairly and impartially. We acknowledge that some customer complaints can be difficult to resolve and can cause anxiety and distress to customers. Whilst we aim to resolve matters there are times where a small number of customers may pursue their complaints in a way which hinders consideration of their complaints, and/or has a significant impact on the Council's resources.

In such cases we will follow our Policy on Unreasonably Persistent Complaints and Unreasonable Customer Behaviour, which may result in a customer's contact with the Council being restricted.

Occasionally customers may submit information requests in a way that is burdensome, repeated or vexatious. This can include using Artificial Intelligence (AI) in a way that is designed to obstruct or overwhelm our processes (see below). We may deem these requests Unreasonable Behaviour and limit our contact with you, or we may ask you to simplify, clarify, or amend your requests.

Use of Artificial Intelligence (AI) when Submitting Complaints

Tunbridge Wells Borough Council recognises that artificial intelligence can be an assistive technology which helps customers to formulate complaints and analyse responses.

However, AI generated complaints can result in:

- very long, repetitive complaints that contain unrelated comments, information or misdirected demands;
- complaints that have a scope that is greater than the actual complaint, or services provided by the Council;
- complaints written in a way which makes it hard to identify the intent of the complaint, or the resolution being asked for.

If we feel your complaint is excessively long or cannot fairly be interpreted then we will reject your complaint and ask you to resubmit the information in a more concise form.

As an example, if your complaint submission includes several pages and/or documents, we will ask you consolidation your submission and concentrate only on relevant issues that you feel have had a material affect on you.

Accessibility

If you require this information in an alternative format, need assistance with your complaint or a representative to deal with your complaint on your behalf please email complaints@tunbridgewells.gov.uk.