

Corporate Complaints - Update

Purpose

1. To update the Standards Committee on corporate complaints and ongoing work in developing the council's arrangements for dealing with complaints.

Background

2. Under paragraph 2.5.6 of Part 3 of the Council's Constitution the Standards Committee is responsible for overview of corporate complaints handling and Ombudsman investigations.
3. The Council's Corporate Complaints Procedure is set out in Protocol 6 of the Council's Constitution.
4. As well as the Corporate Complaints Procedure the Council has to follow the statutory complaints procedures laid down in respect of child and adult care.
5. The current Corporate Complaints Procedure involves a two-stage process where the first stage is dealt with by the service providing a written response.
6. The second stage is normally only engaged if a complainant remains unhappy with the service response and is designed to provide an independent of service investigation and corporate response on behalf of the Council.
7. However, on some occasions a complaint may be considered at stage two without first having progressed through stage one if the circumstances require it e.g. due to urgency, seriousness of the complaint or other exceptional reasons.
8. An outline of the complaints processes is attached at Appendix 1.

Main Considerations

9. There is a strong culture operating in the Council of acting to the highest standards. This is rooted in the behaviours expected of councillors and staff and upheld by the senior leaders.
10. The number of complaints received under the Corporate Complaints Procedure has fallen from previous years with 459 in 2019/20 (compared to 588 in 18/19, 624 in 17/18 and 671 in 16/17). In 2019/20 320 complaints were dealt with at Stage 1 of the corporate procedure with 76 being dealt with at Stage 2.
11. There were 2 complaints dealt with under the Children's Services statutory procedure at Stage 1, and one at Stage 2. 60 complaints were dealt with through the Adult Care statutory procedure.
12. The 5 services with the highest number of complaints - Children's Services; Adult Social

Care; Housing; Development and Building Control; and Waste Management - remain largely consistent from the previous reporting year with a continued overall decrease in the number of complaints across all 5 services over the past 4 years.

13. Work is ongoing with service representatives to identify trends and learning from complaints within their respective areas. Arrangements for reporting these to senior managers and through to Members are under review.

Local Government and Social Care Ombudsman

14. The Local Government and Social Care Ombudsman Annual Review letter for 2019/2020 may be found at [Council performance - Local Government and Social Care Ombudsman](#). The Ombudsman produces this each year and it provides a summary of the complaints made to the Ombudsman's Office in relation to Wiltshire Council.
15. The total number of complaints and enquiries referred to the Ombudsman in 2019-2020 was 88 compared with 103 in the previous year. Children Services, Planning and Development Control and Adult Care Services constitute the majority of complaints which progressed to the Ombudsman.
16. Of the 88 matters received by the Ombudsman, 37 were subject to detailed investigation, compared with 19 the previous year.
17. Of the 37 that were subject to detailed investigation 19 (51%) decisions were upheld (i.e. finding of fault by the Council), whilst 18 were not upheld. This is in line with the previous year, where of the 19 matters investigated 10 (53%) were upheld and 9 were not, and is below the average of similar authorities, which is 56%.
18. It should be noted that the Ombudsman expressed disappointment in his letter regarding delay in completing remedies within agreed timescales in some cases and delay in responding to enquiries. A review has been undertaken to identify the reasons for delay and the Council is committed to ensuring improvements in timeliness of responses in the future.
19. In all cases the Ombudsman was satisfied that the council had successfully implemented its recommendations, compared to the national average of 99%.

Impact of Covid-19 Pandemic

20. Following the announcement of the lockdown in March 2020 staff moved to remote working and have been working this way through to the present.
21. As the system for raising complaints has not altered and email, phone and receipt of hard copy were and are still able to be actioned there has been no effect on the public's ability to raise a complaint.
22. The level of complaints did drop slightly at the start of the lockdown but within a short time returned to the normal level of complaints received.
23. In March 2020, to assist Council's dealing with the response to the pandemic, the Local Government and Social Care Ombudsman took the decision to suspend receiving new

referrals and to requiring councils to respond on existing referrals. This suspension remained in place until early June 2020.

24. The suspension by the Ombudsman did help the Council to manage resources at the start of the pandemic as it meant that service areas were not placed under the same requirements to provide time limited responses. However, it did create a backlog which needed to be dealt with when the suspension was lifted. This backlog was managed within existing resources and has now been cleared with little effect on the overall service to the Council's residents.
25. Complaints that relate to emergency service provision in response to the pandemic has been limited, indicating public recognition of the emergency work that the Council is providing is of a high standard and appreciated and that any issues that are developing are being successfully managed.
26. Whilst there has been no marked increase in the number of complaints during the pandemic there has been a noticeable increase in anxiety, and in some instances aggression, in communications from some complainants during this period. This is likely to have been caused by the uncertainties and insecurity that the pandemic is bringing to the community at large. This is being managed by staff understanding the issues and providing as much reassurance as possible to those concerned. It is also being monitored to ensure appropriate oversight is available if required.

Future Developments

Change in services

27. In December 2020 Maria Doherty was appointed to the new role of Head of Democracy and Governance and Deputy Monitoring Officer (Governance). Frank Cain continues to act as Deputy Monitoring Officer (Legal). This provides greater capacity and support to the Monitoring Officer function.
28. As part of the development of this role it is proposed that the complaints and governance officers who support both Corporate and Code of Conduct complaints will transfer from the Legal Services team to the Democracy and Governance team on 1 April 2021.
29. This proposed move will provide the following benefits and synergies:
 - It will bring together under one team Members' registrations for Unitary Councillors (currently with the democracy team) and those for Town/Parish Council Members which the Monitoring Officer has to oversee on behalf of Town/Parish Councils (which currently sit with the complaints function within legal services).
 - Closer working of governance officers with Democratic Services in respect of member complaints which now go through assessment and hearing sub-committees.
 - Closer working between corporate complaints and overview and scrutiny to provide awareness of any complaints trends that may warrant review.
30. The proposal will also allow better separation between legal advisors who may have to provide an independent legal view on an issue which is being raised within a complaints context.

Corporate Complaints Procedure Review

31. The Complaints Procedure at Protocol 6 of the Constitution is due for review and it is proposed as part of that review that a model corporate complaints procedure for local authorities, which is recommended by the Local Government and Social Care Ombudsman, is considered.
32. The model code is similar to the Council's current two stage process but the first stage has more emphasis on informality and resolution and whilst stage two is still a formal response by the Council, it is geared towards the relevant service providing the response with the complaints officer providing more of an independent advisor role.
33. There may be some benefits in considering this approach namely:
 - By focusing on resolution it will minimise the number of complaints that will need to progress to stage two and those that progress through to the Ombudsman.
 - It removes some duplication. Sometimes a stage two response will merely mirror the stage one response.
 - The service already has the facts and this avoids duplication of the investigator having to seek that information and the service having to provide it. However, having an independent specialist advisor will ensure that all issues are considered from a corporate perspective and critical issues are identified and addressed.
 - By having the service directly involved in both stages it means that any lessons to be learnt are embedded within the service and corporately from the outset. It also ensures that the complaints team provide the corporate oversight necessary to ensure that the complaints are progressed in a timely fashion and any lessons learnt are embedded within the service and for wider dissemination in the council as required.
 - It frees up the specialist complaints officers to deal with the Ombudsman referrals, statutory child and adult care complaints, which must be carried out by an officer who is independent of the service, and Code of Conduct investigations which has increased in the past year and has necessitated on occasions referral to an independent consultant due to capacity issues.
34. It is proposed that the revised Complaints Procedure is taken through the Constitution Focus Group and that a report with their recommendations is brought to the Standards Committee at the earliest opportunity.

Proposal

35. The Standards Committee is therefore asked:
 - a. To note the current position on Corporate Complaints and Ombudsman investigations, and the proposed transfer of the complaints function to the Democracy and Governance Service.
 - b. To note the review of the Complaints Procedure in Protocol 6 of the Constitution and to agree that the proposed new procedure is referred to the Constitution Focus Group for consideration and report to the Standards Committee.

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Appendix 1 –Summary of Complaints Processes