



Leicester
City Council

MEETING OF THE STANDARDS COMMITTEE

DATE: THURSDAY, 10 APRIL 2014

TIME: 5:30 pm

**PLACE: THE FOUNTAIN ROOM - GROUND FLOOR, TOWN HALL,
TOWN HALL SQUARE, LEICESTER**

Members of the Committee

Councillor Waddington (Chair)

Councillor Shelton (Vice-Chair)

Councillor Senior

Councillor Sood

One Unfilled Place for a Non-Grouped Member

Ms Amanda Fitchett (Independent Member)

Mr Desmond Henderson (Independent Member)

Ms Joanne Holland (Independent Member)

Mr Stephen Purser (Independent Member)

Ms Fiona Barber (Independent Member)

Standing Invitees:

Mr David Lindley (Independent Person)

Ms Caroline Roberts (Independent Person)

Members of the Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for the Monitoring Officer

Officer contact: Graham Carey
Democratic Support, Leicester City Council
Town Hall, Town Hall Square, Leicester LE1 9BG
(Tel. 0116 454 6356)

INFORMATION FOR MEMBERS OF THE PUBLIC

ACCESS TO INFORMATION AND MEETINGS

You have the right to attend Cabinet to hear decisions being made. You can also attend Committees, as well as meetings of the full Council. Tweeting in formal Council meetings is fine as long as it does not disrupt the meeting. There are procedures for you to ask questions and make representations to Scrutiny Committees, Community Meetings and Council. Please contact Democratic Support, as detailed below for further guidance on this.

You also have the right to see copies of agendas and minutes. Agendas and minutes are available on the Council's website at www.cabinet.leicester.gov.uk or by contacting us as detailed below.

Dates of meetings are available at the Customer Service Centre, 91 Granby Street, Town Hall Reception and on the Website.

There are certain occasions when the Council's meetings may need to discuss issues in private session. The reasons for dealing with matters in private session are set down in law.

WHEELCHAIR ACCESS

Meetings are held at the Town Hall. The Meeting rooms are all accessible to wheelchair users. Wheelchair access to the Town Hall is from Horsefair Street (Take the lift to the ground floor and go straight ahead to main reception).

BRAILLE/AUDIO TAPE/TRANSLATION

If there are any particular reports that you would like translating or providing on audio tape, the Democratic Services Officer can organise this for you (production times will depend upon equipment/facility availability).

INDUCTION LOOPS

There are induction loop facilities in meeting rooms. Please speak to the Democratic Services Officer at the meeting if you wish to use this facility or contact them as detailed below.

General Enquiries - if you have any queries about any of the above or the business to be discussed, please contact Graham Carey, Democratic Support on 0116 454 6356 or email Graham.Carey@leicester.gov.uk or call in at the Town Hall.

Press Enquiries - please phone the Communications Unit on 0116 454 4150

PUBLIC SESSION

AGENDA

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

Members are asked to declare any interests they may have in the business to be discussed.

3. MINUTES OF PREVIOUS MEETING

**Appendix A
Page 1**

The minutes of the meeting of the Standards Committee, held on 30 January 2014, are attached and Members are asked to confirm that they are correct.

4. DRAFT PROTOCOL FOR INDEPENDENT PERSONS

**Appendix B
Page 7**

The Monitoring Officer submits a proposed protocol in instances where an elected member who is the subject of a complaint alleging a breach of the Code of Conduct seeks a meeting with the Independent Person. The Committee is requested to comment on the proposed protocol.

5. EFFECTIVENESS OF CORPORATE COMPLAINTS SYSTEM

**Appendix C
Page 11**

The Director Information and Customer Success to submit a report summarising how complaints about the Council are dealt with. The report was originally submitted to the Council's Health and Wellbeing Scrutiny Commission in December 2013 as part of its consideration of complaints on health related matters.

6. CORPORATE COMPENSATION POLICY

**Appendix D
Page 19**

The Monitoring Officer submits a report seeking the Committee's views on the proposed Corporate Compensation Policy that is to be submitted to the Council Meeting in June 2014.

7. PRIVATE SESSION

MEMBERS OF THE PUBLIC TO NOTE

Under the law, the Committee is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

The Committee is recommended to consider the following report in private on the grounds that it will contain 'exempt' information as defined by the Local Government (Access to Information) Act 1985, as amended and consequently makes the following resolution:-

“that the press and public be excluded during consideration of the following report in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1

Information relating to any individual.

Paragraph 2

Information which is likely to reveal the identity of an individual.

Paragraph 7c

The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

UPDATE ON COMPLAINTS AGAINST COUNCILLORS

8. COMPLAINT AGAINST COUNCILLORS - UPDATE

The Monitoring Officer will provide an update. No new complaints against Councillors have been received since the last meeting.

9. PUBLIC SESSION

The Committee are recommended to resolve to “re- admit the press and public to the meeting”.

10. DISCUSSION PAPER - NON-COMPLIANCE WITH INFORMAL RESOLUTION OUTCOMES

**Appendix E
Page 29**

The Monitoring Officer to submit a discussion paper seeking the views of the Committee on what should happen in the event that an informal resolution outcome is not acted upon by subject Member.

11. ANY OTHER URGENT BUSINESS



Leicester
City Council

Minutes of the Meeting of the
STANDARDS COMMITTEE

Held: THURSDAY, 30 JANUARY 2014 at 5.30pm

P R E S E N T :

Councillor Waddington (Chair)

Councillor Senior

Councillor Sood

Also present:

Ms Fiona Barber	Independent Member
Ms Amanda Fitchett	Independent Member
Mr Desmond Henderson	Independent Member
Mr S Purser	Independent Member
Mr David Lindley	Independent Person
Ms Caroline Roberts	Independent Person

* * * * *

18. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Shelton who was on other Council business and Ms J Holland.

19. DECLARATIONS OF INTEREST

Members were asked to declare any interests they might have in the business to be discussed.

Councillor Senior declared an Other Disclosable Interest in the item on 'Complaints Against Officers' as her partner was a member of staff. However, since the item would be a generic discussion affecting all officers, Councillor Senior indicated that although the interest would not be prejudicial to her judgement of the public interest she had nevertheless decided to abstain from the discussion.

20. MINUTES OF PREVIOUS MEETING

RESOLVED:

that the minutes of the meeting of the Standards Committee, held on 7 November 2013, be confirmed as a correct record subject to the Resolution in Minute No. 16 be amended to read “That the report be noted and the actions suggested by Members be added to the Work Programme.”

21. MINUTES OF THE STANDARDS ADVISORY BOARD

RESOLVED:

that the minutes of the meetings of the Standards Advisory Board held on 10 October 2013 and 19 December 2013, be confirmed as a correct record.

22. SOCIAL MEDIA GUIDE

The Monitoring Officer submitted a draft Social Media Guide for Councillors which has been amended and redrafted following consideration of it at the last meeting in November.

Members discussed the draft code and made the following comments and observations:-

- The guide had no contact point for members to ask for guidance.
- The emphasis on personal liability for a councillor’s comments on social media was welcomed.
- Training on the use of social media would be helpful.

A member also commented that Councillors’ social media accounts were often a mixture of personal and political issues and because of this there were reasons why the Council should be cautious about supporting Councillors’ ‘private’ social media accounts with corporate resources.

In response, the Monitoring Officer stated that the guidance was intended as a training resource for Members. The Council had no available technical resources to provide assistance with setting up social media for members or to provide a technical support service for any problems when using social media. It was for this reason that the guide did not include a telephone contact number. The Monitoring Officer offered to add a paragraph with his contact details as the initial point of contact and indicating that whilst there was not corporate technical support, training could be available.

The Director of Delivery, Communications and Governance stated that she would feed the Committee’s comments back to the Workforce Development

Team to see if further training for Members could be incorporated into the Member Development Offer and e-learning package.

RESOLVED:

- 1) that the draft guide be endorsed and circulated to all councillors for comment;
- 2) that councillors be asked if they would like to be offered training opportunities on the use of social media; and
- 3) that councillors' responses to the draft guidance and the offer of training opportunities be considered at a future meeting.

23. COMPLAINTS AGAINST COUNCILLORS - UPDATE

a) Councillors' Complaints against officers

The Monitoring Officer stated that he had invited the Director of Delivery, Communications and Governance to respond to the request at the last meeting when members had asked for guidance on how Councillors could make complaints against officers, particularly where an issue had been raised with the Head of Service and they had decided not to pursue the complaint.

The Director of Delivery, Communications and Governance outlined procedures for Members to make complaints against officers. The Monitoring Officer also circulated a schematic diagram of the Corporate Complaints Process for Members information.

The Director of Delivery, Communications and Governance stated that council officers were required to work to a Code of Conduct as part of their terms and conditions of employment, which were negotiated through a set process involving trades union. Any changes would require further negotiations and agreement. The Director commented that the Corporate Complaints System had two stages, the second of which escalated the complaint to be reviewed by a senior manager in another department. The Council's constitution also included Codes and Protocols dealing with relationships between Members and Officers. These provided that unresolved problems could be raised with the Divisional Director, or, if necessary, the Group Whip and the Monitoring Officer. The Director felt that as there were already two routes for complaints to be made against officers, to introduce a third could be viewed as being disproportionate and unfair compared to the procedure in place for making complaints against councillors.

Following discussion by Members, the Director of Delivery, Communications and Governance stated that the Corporate Complaints System was monitored and the progress and outcomes of complaints were regularly reviewed. The Monitoring Officer also commented that an investigation into a complaint against a member under the Code of Conduct would exclude an officers' action, but it would be mentioned in the report if it contributed to delays etc on a

Member's behalf. The Monitoring Officer would however pursue any residual officer issues through the appropriate processes.

Other local authorities had been canvased on this issue and there was no evidence that other authorities had specific procedures in place other than those which already existed at the Council. Members commented that it was important for Councillors to register complaints under the Corporate Complaint System and to make it clear when the complaint was being escalated to a stage 2 complaint.

RESOLVED:

- 1) that the Director of Delivery, Communications and Governance issue a general reminder to senior managers that complaints from Councillors should be treated and dealt with in the same way and within the same timescales as any other complaint under the Corporate Complaints Procedure;
- 2) that the Corporate Complaints Procedure be reviewed to see if it was sufficiently fit for purpose in relation to the complaint details outlined by the Chair, and that the tracking data for corporate complaints be submitted to a future meeting;

b) Complaints against Members

The Monitoring Officer submitted a report giving feedback on complaints against Councillors reviewed and/or determined since the last meeting and updated the Committee on progress with outstanding complaints against Councillors.

The Chair requested that more information be included in future reports as it was difficult to determine whether the Committee should be taking action on any lessons learned from the complaints. In addition it would be useful to have details of whether complaints were repeats of previous complaints against a councillor and whether the councillor was, or had been, the subject of a number of complaints.

The Monitoring Officer stated that he saw the report as a tracking report on the progress of dealing with the complaints. It was difficult to provide more detailed information in the report in its current form without identifying a councillor, particularly as the report was considered in the 'open' part of the meeting when the public and press were able to attend the meeting.

Councillor Senior referred to the changes in the Housing Ombudsman scheme under the Localism Act and stated that she had undertaken considerable research on the issues involved and would be prepared to share this with all councillors.

The Monitoring Officer indicated he would be prepared to provide more detailed information should the Committee exclude the public and press from the

meeting.

PRIVATE SESSION

RESOLVED:

That the press and public be excluded during consideration of the following matter in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it was likely to disclose 'exempt' information, as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, and taking all circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1 Information relating to an individual.

The Monitoring Officer provided more detail on each complaint in response to Members' comments and discussion.

RESOLVED:

that the monitoring report be received and noted and that more information be provided in future to enable members to have a more meaningful discussion of the issues involved in order to determine if there were any lessons to be learned from complaints and whether the Committee needed to issue any guidance etc.

24. CLOSE OF MEETING

The Chair declared the meeting closed at 6.55 pm.

Purpose of this paper

This short paper aims to set out the arrangements to be followed in the event that an Elected Member whom it is alleged has committed a breach of the Code of Conduct for Councillors seeks a meeting with the Independent Person (I.P.)

Background

Section 28(7) Localism Act 2011 states:

- (7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
- (b) whose views may be sought—
- (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
- (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation,

The new “Arrangements” for dealing with complaints about the conduct of Councillors was established on 1 July 2012 and the principles of the new arrangements included:

- simplicity and transparency
- involvement of the I.P. at key stages of the process
- greater powers for the Monitoring Officer to deal with complaints relating to the Code of Conduct.

The right to “seek the views” of the IP therefore applies to any Elected Member who is the subject of a complaint. They may do this at any stage of the process except where a matter is referred to the police.

This right is separate to the right of the complainant to seek a “Review” of their complaint in the following circumstances as set out in our “Arrangements”:

- *rejection on grounds that complaint is not related to Code of Conduct, or is covered by another process*
- *rejection on grounds of being (i) trivial or (ii) not in the public interest to pursue or (iii) vexatious) OR*
- *recommendation of informal resolution*

Protocol on the role of the Independent Person - meeting with Elected Members

Such requests must be lodged with the Monitoring Officer within 5 working days of receipt of the outcome letter. Any Review will be undertaken by the Monitoring Officer, this time in consultation with a different Independent Person

The Reason for this paper

The experience gained during the first year of the new Standards regime shows that Elected Members have in most cases been willing to accept the views of the Monitoring Officer (M.O.) and I.P. where informal resolution is the outcome. This outcome often involves offering to explain more fully the reason for adopting a course of action, offering an apology and/or offering a way forward.

However in any matter, whether it is (*one that is dismissed?*); is proposed to be dealt with by informal resolution; is being “reviewed” or is one that proceeds to full investigation, the subject Member has a right to “*seek the views*” of the I.P. It is important that this engagement is defined and moderated so as to guard against:

- the Subject Member attempting to unduly influence the progress of the investigation by, for example, trying to explain “off the record” to the I.P. what they think of the complaint or how it should be resolved
- the Subject Member trying to compromise the independence of the I.P. by, for example trying to tell them things “in confidence” which are highly material to the investigation
- the Subject Member having false expectations of the purpose of exercising their right to seek the I.P.’s views
- the complainant being disadvantaged by the Subject Member’s exercise of their statutory right to seek the views of the I.P.

This Protocol therefore sets out the terms of engagement of such interaction, such as to promote transparency and preserve confidence in the Standards regime.

Arrangements for a meeting between the duly appointed IP and an Elected Member subject of a complaint:

- i. A Subject Member shall only be entitled to “seek the views” of the I.P. allocated to their complaint.

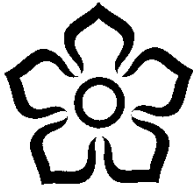
Protocol on the role of the Independent Person - meeting with Elected Members.

- ii. The right to speak with the I.P. will not apply where a decision has already been taken (and communicated) to dismiss the complaint
- iii.
- iv. The right to speak with the I.P. will not apply where a complaint has been referred to the Police
- v. The Subject Member shall make any request to “seek the views” of the I.P. through, and only through, the M.O. Where a Subject Member directly approaches the I.P., the I.P. will refer them back to the M.O. without further engagement
- vi. The M.O. will arrange the meeting between the Subject Member and the I.P. at a date and time convenient to both, and on Council premises
- vii. The meeting shall be between the Subject Member and the I.P. only. No other attendees shall be permitted.
- viii. The I.P. will explain, at the outset, the nature of their role which is to listen to the Subject Member, explain the thinking that the I.P. and M.O. have undertaken (or, where no outcome has yet been reached, the questions that they will be addressing before reaching an outcome) and reiterate that they will NOT at that meeting express a concluded or tentative view on any of those matters
- ix. The purpose of the meeting will be for the Subject Member to better understand why the I.P. and M.O. have reached a particular outcome. It is NOT an opportunity for the Subject Member to attempt to exhort the I.P. to change their mind or to present “evidence” to them. I.P.s do not conduct “investigations” or “fact finding” exercises. These are done by the M.O. in cases that are not referred for formal investigation, or by the independent Investigator in cases referred for investigation.
- x. The I.P. will report back to the M.O. after the meeting a summary of the discussion.

Protocol on the role of the Independent Person - meeting with Elected Members

- xi. If the I.P. takes notes of the meeting these will be as an aide memoir for the I.P. only and will not act as a formal minute. The Subject member is free to make their own notes

- xii. If the Subject member, contrary to this Protocol, submits information or evidence that is material to the handling of the complaint, this information or evidence will be shared by the I.P. with the M.O. (and an Investigator where one is appointed) and acted upon appropriately.



Leicester
City Council

Health and Well Being Scrutiny Commission

31st December 2013

Leicester City Council complaint management

Report author: Director, Information and Customer Access

1. Summary

This report summarises how complaints about Council service are dealt with. Reference is made to the Corporate, Social Care and FOIA processes.

2. The Corporate Complaint Process

General complaints to Leicester City Council are recorded on a corporate complaints system and allocated to Departmental Complaints Officers (DCOs) for allocating and monitoring responses.

Corporate complaints are classified as

- Stage 1 which are dealt with by the service area complained about. A complaint is acknowledged within 24 hours and responded to in full within 10 working days.
- Stage 2 which is used where a complainant is not satisfied with the response they receive at Stage 1. This stage is dealt with an independent officer from another service area. Complaints are acknowledged, as above, and responded to in 20 working days

After these two stages have been exhausted, the complainant may have recourse to refer their issue to one of two Ombudsman services (there is a specialist Ombudsman for Council tenancy matters).

All complaints are also classified by type (e.g. standard of Service, attitude of staff), and whether the complaint was justified or not. A service improvement narrative (where a complaint is justified,) is also recorded.

Complaints are identified mainly through Customer Services or other front of house points, such as the specialist telephone Contact Centres. However, any

Council officer may record a complaint and forward it to Customer Services or their service area DCO for recording and processing.

3. Adult, Young People and Children's Statutory Social Care Complaints

Separate procedures exist for complaints about the standard of social care provision.

Adult Social Care Complaints (Two Stage Process)

The Adult Social Care Statutory Complaints & Commendation process operates within a legislative framework and formal guidance is in place to support its practical implementation. The process is overseen by the Complaints Manager.

The complaint guidance defines and sets out such things as who is able to raise a complaint under the procedure, what time limits exist for raising a complaint, timescales for acknowledging and responding and more.

In principle there are two stages involved with the Adult Social Care Statutory Complaints process:

The first stage is a combination of processes working towards Local Resolution and this may include internal or independent investigation, mediation and conciliation, dependent on the circumstances. An assessment is made by the complaints manager and the investigation is usually, although not invariably, handled by a senior manager (Locality General Manager or above).

The response times for complaints at this stage vary from 5 to 65 working days according to the "grading" given to the complaint's level of seriousness by the complaints manager.

The second stage of the process is with the Local Government Ombudsman.

As the legislation that drives Adult Social Care Complaints is also shared by agencies within Health, there is a formal joint protocol in place to ensure that cross organisational complaints are addressed in a unified way. The purpose of the protocol is to draw together these agencies to provide one complaint response on behalf of all the organisations concerned. Representatives from the relevant agencies also meet on a quarterly basis to discuss any common issues arising and to review the effectiveness of the protocol that is in place.

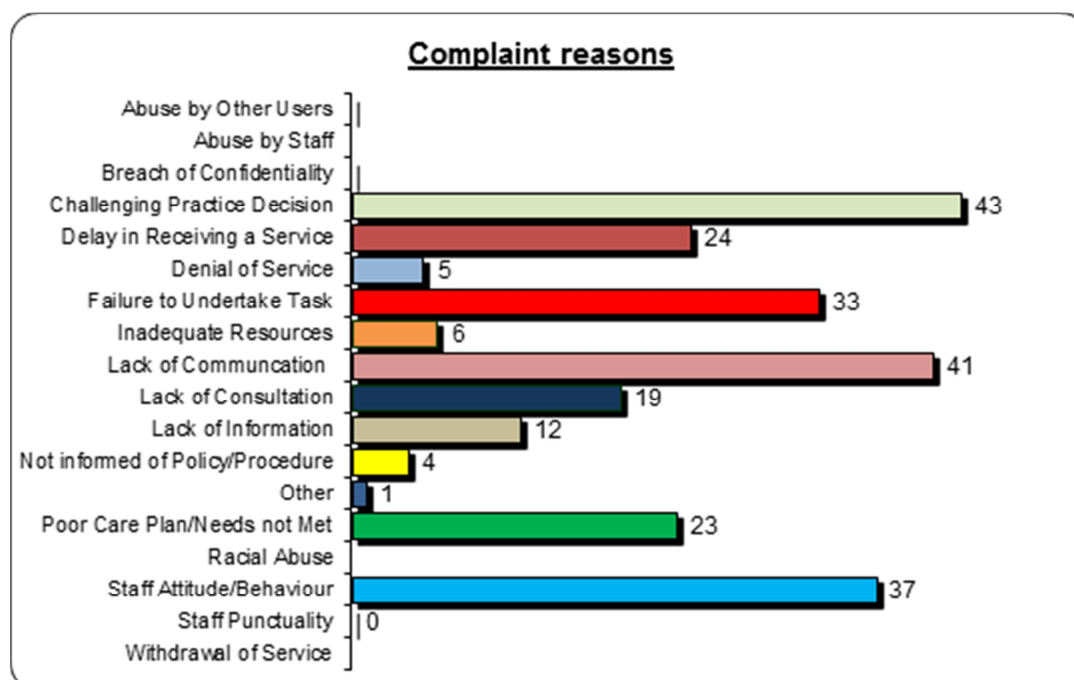
Adult Social Care also records and responds to those complaints that are logged under the corporate procedure.

Information management, monitoring and reporting

Adult Social Care senior managers are provided with monitoring information relating to complaints on a monthly basis and this is followed with a detailed annual report that is also made available publically.

Within the annual report detailed statistical information is provided with some analytical commentary on such areas as:

- How many complaints/commendations are received
- What/which service they are about
- Target response times and how they are being met
- How/how many complaints are concluded (e.g. upheld, partially upheld, not upheld)
- How complaints are received (email, post etc)
- Analysis by demographics, gender, ethnicity (i.e. who is accessing the complaint procedure/reporting concerns)
- Analysis by service area
- Customer feedback comments (in relation to managing the complaint itself)
- Reasons behind complaints (the chart below provides an example of what is recorded)



A policy is also in place to consider any complaints that may result in payments for maladministration identified by the Department (not by the Local Government Ombudsman).

A brief report on complaints and commendations information is also published in the Adult Social Care Annual Report together with a report on what we have done as a result of the complaints that we have received.

Learning lessons from customer feedback

An important part of the ASC complaint process is to ensure that valuable customer feedback is identified from complaints received and utilised to ensure that service improvements are made where appropriate.

At the point at which an outcome to a complaint is known, managers responding to complaints are asked to identify any areas of weakness or to highlight any potential service improvements, flagged up as a result of a customer's expression of dissatisfaction.

Managers are expected to make improvements where necessary for their own individual service area following specific information received from a complaint.

The Complaints Manager also actively reviews all complaints received (regardless of outcome) for specific periods of time and reports to senior managers on any trends or common themes emerging from these individual complaints. The Divisional Management Team is asked to consider this information and to propose and implement any appropriate actions identified. Adult Social Care and Safeguarding's Senior Management Team is now actively involved with implementing service improvements identified from this complaint monitoring information. The consideration that has been given to the lessons learnt and any actions arising are then reported back as part of this monitoring cycle to the Leadership Team, so that the Director is aware of the action taken.

As an example, some of the actions taken as a result of complaints received during the year have been:

- Held more open discussions within teams regarding customer feedback to encourage direct service improvements by team members.
- Made improvements to our communication with customers; making sure that we use plain English in the letters that we send out.
- Targeted staff training to make sure that there is a consistent approach in the way that we carry out community care assessments.
- Reviewed our message taking methods to make sure that the right people return calls in a timely way.

The Complaints Manager has also uses specific examples from complaints received at different team meetings to enable staff to fully understand the importance of good complaints handling and to learn from poor practice or mistakes.

Commendations are welcomed and the Director is made aware of individual efforts so that these can be acknowledged and formally recognised.

Children and Young Peoples' Social Care Complaints (Thee Stage Process)

The Children's Social Care Statutory Complaints & Commendation process operates within a legislative framework and formal guidance is in place to support its practical implementation. The process is overseen by the Complaints Manager. The Complaints Manager is part of the Safeguarding and Quality Assurance Unit of the Children's Social Care and Safeguarding Division and is responsible for managing the process for children's statutory complaints.

The complaint guidance defines and sets out such things as who is able to raise a complaint under the procedure, what time limits exist for raising a complaint, timescales for acknowledging and responding and more.

The statutory complaints procedure has three stages

Stage 1 – Local Resolution

Complaints are dealt with by managers at the point closest to service delivery.

Stage 2 – Formal Independent Investigation

Experienced, Independent Investigators who are not employed by Leicester City Council investigate the complaint and produce a report. The Regulations require the Investigator to be accompanied by an Independent Person who works alongside the Investigator to ensure that the process is transparent, open and fair.

A Service Director adjudicates on the findings.

Stage 3 – Independent Review Panel

A panel consisting of 3 Independent People reviews the Stage 2 investigation and the Department's response.

STATUTORY RESPONSE TIMESCALES FOR COMPLAINTS		
Stage 1	Stage 2	Stage 3
10 Working Days or up to 20 if the case is complex	25 Working Days Can be extended up to 65	30 Working days to set up panel following request. 20 Days for Director to respond to panel's findings

This is the end of the statutory complaints procedure. If complainants remain dissatisfied they can refer their case to the Local Government Ombudsman (LGO).

The Local Government and Public Involvement in Health Act 2007, which came into effect from 1st April 2008, introduced a number of changes to the Local Government Ombudsman's jurisdiction. One of these changes gives the LGO the power to investigate a complaint that has not previously progressed through the complaints procedure of the local authority concerned

In addition to the three formal stages, concerns can also be responded to as an Initial Enquiry. These are enquiries raised by a service user, or on behalf of a service user, which can either be resolved swiftly – by perhaps a phone call, or if the expressed preference is not to make a formal complaint. Initial Enquires also cover issues which need further clarification. There are no formal timescales for a response, although this is monitored by the Complaints Manager.

Alternative Dispute Resolution

Most service users want to resolve complaints quickly and don't always want to enter the formal investigation stage. Those whom are not satisfied with the response at any stage of the complaint are offered the opportunity to meet with the responding manager to try to resolve the issues. This meeting is chaired by the Complaints Manager.

The role of Complaints Manager has recently been extended to have a wider remit covering customer feedback and quality assurance. Consultation will take place with Children and Young People, Parents and Carers, Professionals and

community members to find out their experiences of the Services provided by the Division. This will be co-ordinated by the Complaints Manager.

This more complete picture will support us to identify services that receive repeat complaints and will help us to identify areas for improvement across the Division.

4. DPA and FOIA Complaints

Complaints about breaches of the Data Protection Act 1998 are not dealt with under the corporate complaints procedure but are logged with and investigated by the Information Governance Team.

Stage 1 is an investigation by the Information Governance Manager. (Target 20 working days)

Stage 2 is an investigation by an independent manager. (Target 20 working days)

Stage 3 Complainants are advised to contact the Information Commissioner's Office if they remain unhappy.

5. Monitoring and Reporting on Complaints

Complaints are recorded in the corporate Customer Relationship Management (CRM) system which holds a full history, including documentation, of any complaints received.

The Head of Customer Services leads a Departmental Complaints Officers Group, through which issues relating to complaints handling can be explored and resolved.

The CRM system is used by DCOs to flag any complaints which have deadlines due. There is also a specialist reporting tool which is used by DCOs to produce monthly reports for managers and directors within their service areas of any outstanding complaints and trends in issues being reported.

Recently, Customer Services have assumed a role to assist with this process and also to review the quality of complaints responses on a monthly basis. Customer Services also provide data on the ratio of Stage 2 to Stage 1 complaints. Work is underway to identify which services most often attract escalated complaints and also any trends in types of complaint being raised, eg service failure.

Figures for corporate complaints received during 2013 are attached at Appendix 1.

6. Vexatious Complainants

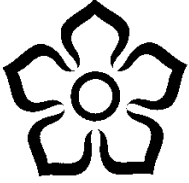
A procedure exists for investigating and designating a complainant as “vexatious”. This is where, despite a DCO being satisfied that a complaint has been properly investigated and responded to the complainant persists in making the same complaint, attempts to change the substance of a complaint, is physically or verbally aggressive or threatening, or contacts Council officers repeatedly about the same subject.

A case conference will be convened by a lead DCO, and involve DCOs and officers from any other affected areas, plus an independent DCO. The details and recommendations are reviewed by the Director of Information and Customer Access who will confirm if the complainant should be designated vexatious or not.

7. Help and Support

There is extensive information and advice available on the Council intranet for those handling complaints, including sample phrases and forms to use to record complaints.

Author **Melinda Capewell**
Contact **371342/ 4541342**
Melinda.capewell@leicester.gov.uk



Leicester
City Council

WARDS AFFECTED - ALL

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

SMB	21.01.14
STANDARDS COMMITTEE	10.04.14
AUDIT & RISK COMMITTEE	15.04.14
FULL COUNCIL	26.06.14

CORPORATE COMPENSATION POLICY

Report of the Monitoring Officer

1. PURPOSE OF REPORT

To seek the agreement of the Council to the proposed Corporate Compensation Policy. The policy is required in order to allow the Council to offer appropriate redress for actions taken by officers in cases where injustice is caused. A policy will ensure that the principles are applied consistently, and that there is a proper audit trail of accountable decision-making and expenditure

- 1.1 The policy is attached as Appendix 1

2. RECOMMENDATIONS (OR OPTIONS)

- 2.1 (Standards and Audit & Risk) - To note the report and make any recommendations to Council
- 2.2 (Full Council) - To approve the policy as set out in Appendix 1

3. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

3.1. Financial Implications

No specific budgets are set aside for the payments that could be made under this policy. Costs would be met by the service concerned. They are unlikely to be significant in the context of the Council's finances. - Colin Sharpe, Head of Finance, ext 37 4081.

3.2 Legal Implications

The power to make payments under the proposed policy derives from:

s.92 LGA 2000 - Payments in cases of maladministration

(1) *Where a relevant authority consider—*

(a) *that action taken by or on behalf of the authority in the exercise of their functions amounts to, or may amount to, maladministration, and*

(b) *that a person has been, or may have been, adversely affected by that action,*

the authority may, if they think appropriate, make a payment to, or provide some other benefit for, that person.

(Kamal Adatia, City Barrister, Ext 37 1401)

3.3 Climate Change

None

4. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph References Within the Report
Equal Opportunities	N	
Policy	N	
Sustainable and Environmental	N	
Crime and Disorder	N	
Human Rights Act	N	
Elderly/People on Low Income	N	
Corporate Parenting	N	
Health Inequalities Impact	N	

5. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

None

6. REPORT AUTHOR

Kamal Adatia, Monitoring Officer.

Corporate Compensation Policy

It is recognised that we provide a wide range of services to a large number of customers and that sometimes things will go wrong or will not be delivered to an acceptable standard. It is important that when we have clearly been at fault that we acknowledge this and try to put things right quickly and in the most appropriate way for our customers.

1 Why recommend a remedy?

1.1 To address any injustice that has been caused to a recipient of our service/s, when it appears that we have not done something well and that there has been an apparent service failure. This process can help to draw a line under the matter and help to move the situation on, so that the relationship is repaired for the future

2 What is appropriate to consider under this policy?

2.1 This policy will normally apply to matters being considered under any of the Council's Complaint procedures, where the Council's action has, on the balance of probabilities, caused some 'injustice' to a complainant. There may also be other situations arising outside any formal Complaints procedure where it may also be appropriate to seek early local resolution using the principles of this policy, to avoid the matter escalating through the complaint process (for example, a Corporate Complaint, or a well-founded informal challenge raised by other means)

3 Power to make compensation

3.1 Section 92 of the Local Government Act 2000 gives local authorities the power to remedy injustice where it considers:

That action taken by or on behalf of the Council in the exercise of its functions amounts or may amount to maladministration, (maladministration)

and

That a person has been, or may have been adversely affected by that action (injustice)

3.2 Where both of the above conditions are met the Council may, if it thinks appropriate, make payment to, or provide some other benefit for, that person. It is possible for 'maladministration' to occur without consequent 'injustice' and vice versa and in these circumstances it will not normally be appropriate to consider awarding a payment or other benefit.

3.3 Recommendations made by the Local Government Ombudsman's service fall under alternative legislative powers contained in the Local Government Act 1974 and are not covered by this policy (see point 6.2)

3.4 The payment of compensation under this policy should not be considered to an admission of legal liability on the part of the Council in the event that the complainant may subsequently decide to take legal proceedings as a result of the complaint

4 Scope of the policy

4.1 Maladministration is failure of good administration. It involves 'process' and considers the manner in which decisions are reached or implemented (or not). Maladministration is not concerned with the nature, quality, reasonableness or merits of decisions that are otherwise properly reached

4.2 The Local Government Ombudsman's definition of 'maladministration' includes the following:

- delay
- incorrect action or failure to take any action
- failure to follow procedures or the law
- failure to provide information
- inadequate record-keeping
- failure to investigate
- failure to reply
- misleading or inaccurate statements
- inadequate liaison
- inadequate consultation
- broken promises

4.3 The notion of 'injustice' is not so clearly defined but it will relate directly to the Council's fault and may include such things as:

- hurt feelings, distress, worry or inconvenience
- loss of right or amenity
- not receiving a service
- financial loss or unnecessary expense
- time and trouble in pursuing a justified complaint

4.4 It would not be appropriate to consider use of this payments policy in cases where the complainant has suffered personal injury or damage to property as a result of alleged negligence of the Council. In such cases specific advice should be sought from Legal Services and Risk Management colleagues.

5 Who identifies the need for a remedy?

5.1 The review of any complaint by the investigating officer should be sufficiently in-depth to establish when fault has arisen and this in turn should be able to identify the injustice that has been caused to the complainant. The need for a remedy may also be identified by, or in consultation with, the Complaints Manager. It is not a prerequisite however for the Council or another investigator to have made formal “findings” of maladministration in respect of a complaint. The appropriateness of awarding a benefit or payment to put things right can be considered at any stage.

5.2 Officers do not need to consult further when a remedy is simply a matter of offering an apology or an action within the scope of the team’s usual work practice (such as arranging for a further reassessment to take place, or for a belated repair to be effected). For more significant issues however it may be appropriate to liaise with the Complaints Manager in the first instance.

6 Timing

6.2 Complaints, and therefore compensation, will not normally be considered or made unless the complaint or application is made within 3 months of the date on which the complainant first became aware of the matters alleged in the complaint, unless there are special or exceptional circumstances that would make it unreasonable to apply this rule.

6.3 The Local Government Ombudsman has powers under Part III Local Government Act 1974 to investigate and make findings and recommendations regarding maladministration accompanied by injustice, and these recommendations can include recommendations for the payment of financial compensation. The granting of a benefit or payment under the Council’s Policy will often be undertaken before a complaint is escalated outside of the Council (for example to the Local Government Ombudsman). However even once a complaint is before the LGO the Council can still consider making a payment under this policy (this time in liaison with the LGO as well as the complainant) by way of achieving a “Local Settlement” which, if agreeable, will render it unnecessary for the LGO to investigate the matter further.

7 Types of remedies:

7.2 Non-financial

There are a number of non-financial approaches to finding a suitable remedy and it is anticipated that those listed here will be the likely resolution for most complaints:

- Through an apology.
- Through practical action: the remedy may be that we need to complete the action that was expected in the first instance, to put things right.

- To review our procedures or practices, to avoid the situation arising again. The complainant should be notified of this action and of any changes made to the way we do things, as a result of their complaint.
- Through training or supervising staff; or both.
- We have access to a wide range of services and it is possible that within these services there is something that would serve as appropriate compensation. E.g. the offer of free access to a particular service for a period.

7.3 Financial

A financial remedy should only be considered as the last course of action and where it is clear that any injustice that we have caused has incurred cost or loss for the complainant. It should be clear that we are not paying for the maladministration or fault itself, but for the (wherever possible) quantifiable loss caused by the injustice. Where it is clear that we have caused injustice, but not so clear what the financial loss has been, alternative remedies should be considered first, before a financial remedy is considered on a notional basis.

7.4 Payments generally

The LGO's guidance on remedies explores the types of loss for which a complainant may be compensated financially. This can include categories such as

- (i) reimbursement for loss of a monetary benefit (e.g. Direct Payment not made, or wrongly underpaid, or other allowance not paid);
- (ii) compensation for loss of a non-monetary benefit (requiring a value judgement about quantifying the value of the lost benefit such as a lost opportunity or a loss of amenity e.g. lack of care/service to which the complainant was entitled);
- (iii) expenses incurred in pursuing a complaint
- (iv) Distress (see below)
- (v) Time and trouble (see below)

8 Distress

Distress is categorised by the Ombudsman to include: stress; anxiety; frustration; uncertainty; worry; inconvenience or outrage. Further consideration may take into account the severity of the distress caused, the length of time involved, the number of people affected (family members as well as the service user for instance) and any other professional opinion about the effects on any individual.

9 Time and trouble

This element is distinct to distress and is sometimes considered appropriate by the Local Government Ombudsman. Any payment of this nature would need to be carefully considered on the basis that the complainant has been put to considerable effort beyond that of pursuing a routine complaint. Any complaint where this is considered appropriate can be raised with the Complaints Manager in the first instance and reference will be made

to the Local Government Ombudsman's guidance on this area. Payments for time and trouble are more of a gesture and are not normally large sums

10 Authorisation for financial redress

10.2 In all cases, prior to offering financial redress the investigating officer should complete the Authorisation Form (Form 1 attached). This will help to guide the process of proposing and authorising the remedy.

10.3 Appropriate approval should be sought for all types of financial redress whether it involves a one-off payment, the waiving of charges or the write-off of debts owed to the Department. The proposed amount should be discussed with the Complaints Manager in the first instance to ensure consistency in approach. Where appropriate, reference will be made to guidance provided by the Local Government Ombudsman

- **Up to £500 - Head of Service plus Divisional Director approval**
- **£500+ - Divisional Director plus Monitoring Officer approval**

10.4 Acceptance of the redress being offered should be gained from the complainant in writing, before it is actually made. A discharge of responsibility paper (Discharge Form – Form 2) should also be completed at the point of offer. Payments should be made to the individual that has suffered as a direct result of the maladministration in the first instance.

11 Reporting arrangements for Corporate Compensation Payments

11.2 The City Barrister & Head of Standards will be notified of all payments made under this policy on a half-yearly basis.

11.3 The Audit & Risk Committee will consider payments made under the policy via annual report

12 Relevant legislation and documents considered in the formation of this policy are:

- Section 92 Local Government Act 2000
- Local Government Ombudsman Guidance on Good Practice 6 – Remedies

AUTHORISATION FORM

Complainant's name & address:	
Summary of complaint:	
Key points of the complaint that justify the remedy being proposed:	
Division affected:	
Remedy being proposed:	
Name of investigating/lead officer:	
Signature & date	
Authorisation required by:	(print names and titles)
<ul style="list-style-type: none"> • <i>Up to £500 - Head of Service plus Divisional Director approval</i> • <i>£500+ - Divisional Director plus Monitoring Officer approval</i> 	1. 2.
Signature & date	1. 2.

Complaint Office use:

Discharge form sent to complainant	Yes/No
Payment to be actioned by:	
Date payment made:	



DISCHARGE FORM

I, **Complainant's Name** agree to accept the sum of **payment in words** in final settlement of this complaint against Leicester City Council concerning **summary of complaint issue**.

Please note

The payment of compensation in this case should not be considered to an admission of legal liability on the part of the Council

All payments under this scheme will be forfeited if any claim made is in any respect fraudulent or if any fraudulent means is being used by the claimant or anyone acting on his/her behalf to obtain payments under this scheme.

Signed :

Print.....

Date :

Please return to:

Investigating Manager's address

Appendix E

Standards Committee 10th April 2014 – discussion paper:

Procedure for dealing with subject (Elected) Member who fails to act upon an outcome of “informal resolution”

The Council’s “Code of Conduct” and associated “Arrangements” govern the principles and processes to be applied when a standards complaint is made alleging misconduct by an Elected Member. To date, most complaints have been resolved by “informal resolution”, an outcome which is applied in circumstances where a potentially valid complaint is made, but where it is not deemed to be in the interests of justice to proceed to a full investigation and where instead a fair and proportionate outcome can be achieved by some other action (often an apology, coupled with an offer to revisit the original topic i.e. a Ward issue). It is the judgement of the Monitoring Officer and Independent Person as to whether to conclude that “informal resolution” is appropriate (with or without the consent of the complainant and subject member).

The Standards Committee are asked to form a view as to what should happen if and when an outcome of “informal resolution is not acted upon by a subject Member. The options could include:

1. Take no action
2. Re-open the original complaint
3. Treat the failure to act as being the topic of a new complaint
4. Refer the matter for political action
5. Public censure

Kamal Adatia
City Barrister & Head of Standards
2nd April 2014

