

**MINUTES OF A MEETING OF THE
ADJUDICATION AND REVIEW COMMITTEE
Town Hall
30 January 2014 (7.30 - 10.15 pm)**

Present:

COUNCILLORS

Conservative Group Frederick Thompson (Vice-Chair, in the Chair)

Residents' Group Barbara Matthews (Vice-Chair) and John Mylod

Labour Group Denis O'Flynn

Apologies for absence were received from Councillors Ted Eden, Robert Benham, Barry Oddy and Rebecca Bennett.

The Chairman reminded Members of the action to be taken in an emergency. There were no declarations of pecuniary interest.

All decisions were taken with no votes against.

27 MINUTES

The Minutes of the Meeting held on 17 October 2013 were agreed and signed by the Chairman.

28 ADULT SOCIAL CARE ANNUAL REPORT (COMPLAINTS & COMPLIMENTS) 2012-13 AS PRESENTED TO INDIVIDUALS OSC

Members were informed that there had been a number of changes across the local authority with the increasing pressures on budgets and making savings, which were likely to continue for the next few years. That did not mean that standards might fall or that the way in which Adult Social Care dealt with complaints should be diminished in any way, but central to the understanding of how well or poorly a service was being delivered was the perception of the service users themselves, and it was this vital outcome measure that drove both the shape and the performance of the service being delivered.

Officers stated that how complaints were addressed informed the service beyond the individual activity itself. It was also how the service as a whole performed and within that how it impacted on its culture and values. Where there were common themes, they might have implications both for the providers and commissioners of services which needed to be understood and acted upon.

With the recent changes in the health authority, it was important that the necessary links/relationships were made in order to ensure that future complaints continued to be dealt with in a coordinated and cooperative way. It was even more important that where complaints covered both Adult Social Care and Health that areas, improvement were identified and that this was fed back through the appropriate channels to ensure change.

The Committee was reminded that Public Health had now come under the responsibility of the local authority and that, with the recent changes in complaints regulations for Public Health this now reflected the Adult Social Care and Health complaints regulations. Going forward, consideration would need to be given on how complaints relating to Public Health were to be dealt with.

In conclusion, Officers referred to the continued improvements in the way in which the service addressed complaints and that this was an on-going process.

Members asked about various aspects surrounding some of the statistics before them and were informed that where there had been a rise in response times, these were not all due to the Service, but could be attributed to external agencies.

The Committee **noted** the report and suggested that in future it might prove more informative if the report differentiated between in-house and external service provision and also provided some comparison with previous years as figures in isolation provided no indication as to whether improvement had, or had not occurred.

29 **CHILDREN & YOUNG PEOPLE'S SERVICES ANNUAL COMPLAINTS & COMPLIMENTS REPORT 2012-13 AS PRESENTED TO CHILDREN'S SERVICES OSC**

The report before the Committee provided information about the numbers and types of complaints handled by the Children and Young People's Service during 2012/13 and how they were dealt with to minimise the impact of justifiable concerns and to reduce the likelihood of future complaints. Some of the key messages that arose from the report during 2012/13 were that:

The overall number of complaints was around 180 and within this figure 46 matters had been raised by MP's and Councillors. The use of a Pre Stage 1 process (27) had been very successful in resolving many initial concerns, with only five cases escalating to the formal stage 1 process while the overall number of Stage 1 complaints had decreased by five.

Matters raised through a Councillor or MP were monitored through their own individual corporate processes.

There had been a consistent approach with complaints made by the Children's Advocacy Service. The number of Stage 1 complaints which had escalated to a Stage 2 complaint had increased in 2012/13 by one.

There was one Stage 3 complaint for the municipal year 2012/13. This Stage 3 complaint was still on-going and would continue into 2013/14.

Members were informed that for 2012/13, 43 compliments had been received in relation of the good work Children and Young People's Services had carried out.

In the same period, five complainants had approached the Local Government Ombudsman (LGO). The outcomes of these complaints were: two referred back as premature complaints and investigated locally as statutory Stage 1 complaints. One was outside LGO jurisdiction, one was an enquiry and one complaint was investigated by the LGO with the outcome being a local settlement without penalty against the Council.

The Committee was informed that most complaints were initiated by parents and very few by children and young people and that the majority of complaints related to the quality of service, alleged poor behaviour of staff (nothing of a "questionable" nature, however) and disputed decisions.

A number of future actions had been identified as a result of the Annual Complaints and Compliments Report 2012/13. Most were continuous development matters but with one or two specific new actions. Key to on-going improvement was the continuation of the staff training programme.

In conclusion, Members were informed that the Council currently had a corporate complaints model which captured non-social care complaints, principally education and children's services activity. These complaints systems were statutory and had separate defined and differing regulated processes.

The Committee **noted** the report and concurred with observations made by the Overview and Scrutiny Committee that in future it might prove more informative if the report provided some comparison with previous years performance as figures in isolation provided no indication as to whether improvement had, or had not occurred and so were of limited value.

30 **LEARNING & ACHIEVEMENT COMPLAINTS REPORT 2012-13 AS PRESENTED TO CHILDREN'S SERVICES OSC**

The report before the Committee provided information about the numbers and types of complaints handled by the Learning & Achievement Service during 2012/13 and how they were dealt with to minimise the impact of justifiable concerns and to reduce the likelihood of future complaints. Some of the key messages that arose from the report during 2012/13 were that all corporate complaints had been captured on the Customer Relations Management System (CRM) and that matters raised through Councillor or MP routes were now monitored through the new processes.

This Service also operated a Pre Stage 1 means to attempt to informally resolve matters. It had been used within the Children and Young People's Services since 2005 and continued to be a very successful process. During the period covered by the report the process had been adapted to incorporate education enquiries.

Four complainants had approached the Local Government Ombudsman (LGO) during the period. One was referred back to the Council (and was subsequently taken as an investigation which was still on-going); one was not investigated, one closed after investigation without fault and the fourth ended as a Local Settlement with a £300 penalty.

Members learned that the majority of complaints related to the quality of service and that as part of the continued review of the underlying causes of complaints, a number of future actions had been identified and would be implemented as standard practice in the future.

In conclusion, the Committee was informed that currently, the Council had a corporate complaints model that recorded non-social care complaints which captured complaints/compliments received by the Learning and Achievement Service.

The Committee **noted** the report

31 **HOUSING SERVICES REPORT AND UPDATE OF PROGRESS IN THE RE-UNIFICATION OF THE COMPLAINTS HANDLING PROCESS**

Members were reminded that at its previous meeting on 17 October, the Head of Homes and Housing had provided them with a summary of how the retained Housing service and the former Homes in Havering QA team was being re-integrated. This report was the one they requested which was to inform them how that work was continuing and what the future held for complaints management across Housing and the Directorate.

In addition, the Committee was informed – in outline - the proposal to restructure complaints handling within the Children, Adults and Housing directorate which would see the complaints handling function moved from the Homes and Housing Service and repositioned in a single, directorate wide complaints team. The report also updated Members on the actions taken to unify the complaints processes established by the former Homes in Havering and retained Housing Service following the re-integration of the two housing service elements.

The re-integration of the Arm's Length Management Organisation (ALMO) Homes in Havering back into the Council began in October 2012. The senior management restructure that followed in early 2013 moved the Homes and Housing service from the Culture and Community directorate into Children, Adults and Housing. After this, a further decision was made during the summer that the performance, complaints and information governance functions of the former ALMO and the Council's retained

Housing service should transfer into the Business and Performance division of Children's Adults and Housing in order to centralise all of the directorate's performance and complaints resources and expertise into a single service in which best practice could be shared for the benefit of all.

The proposal now in its consultation phase was that the complaints team currently located within Homes and Housing would move into the Complaints, Information and Communications team within Business and Performance, with the Complaints Manager reporting to the Complaints, Information and Communications Team Manager. The Complaints Manager role would be re-designated as the Senior Complaints and Information Officer (Homes and Housing).

Members were informed that the officers working on housing-related complaints were entirely funded from the Housing Revenue Account (HRA). There was no proposal to reduce the number of staff working on housing complaints or to require those staff to work on non-housing complaints, which would breach the HRA ring fence. There were no HRA efficiencies accruing from this restructure.

The Committee **noted** that:

1. The two complaints teams within the former Homes in Havering and the retained Housing Service had now been combined.
2. Consultation was currently under way on the proposal to form a Children, Adults and Housing directorate-wide complaints function by moving the Housing Complaints Team from the Homes and Housing Service into the Business and Performance Service within the Children, Adults and Housing Directorate.
3. The draft Service Level Agreement (SLA), between Homes and Housing and Business and Performance had been considered and observations made which could then be considered during the SLA's finalisation.

32 CRM & CORPORATE COMPLAINTS & STATISTICAL UPDATE

Members received a presentation from the Head of Exchequer Services providing them with an update on Corporate Complaints, Member and MP Enquiries for the four months from 1 September – 31 December 2013. The Committee was informed that not only had the number of complaints increased over the same period in 2012 (340 against 300), but the number of cases completed within 10 working days had also increased (273 as opposed to 186 – or a rise of 18%) and which represented an 80% success rate.

The services with the highest proportion of complaints remained the outward facing ones: StreetCare (127) and Homes and Housing (100). Regulatory Services (which now included Trading Standards, Licensing and Environmental Health) had 39 cases.

Performance Indicators – which set the target for responding to complainants within 10 working days at 90% - had shown a steady improvement for the past four quarters and at the end of Q2 2013/14 had reached 82%.

By far the most common reason for complaints given to the Council was customers being unhappy with the service provided (63), whilst challenges made to Council decisions (47) was the second most common cause of complaint.

Escalation of a complaint from Stage One to Stage Two had been set at a maximum of 10%. The average across the four months was 7% and in September and December this had fallen to 5% well below the PI set.

Member & MP Enquiries:

In the same period, MP and Member enquiries had numbered 1,319 compared with 1,153 in the same period in 2012/13. Of these 1,159 had been responded to within ten working days compared with 931 the previous year – a rise to 88% from 81%.

By far the largest number of enquiries concerned StreetCare (888 – 765 of which were responded to within 10 working days). Homes and Housing related enquiries was the second highest area of concern with 193 – of which 185 had a response within ten working days. The Performance Indicator of 90% of enquiries responded to within 10 working days was almost attained in the second quarter of 2013/14 (88% - 81% for the same period the previous year), but, unlike complaints, there had not been a steady, quarter on quarter improvement.

The Committee **noted** the oral update and thanked Mr Potter on his professional input to the committee as this was his last presentation to it.

33 REPORT ON THE GOVERNMENT REPORT ON PROPOSED CHANGES TO THE ORGANISATION OF THE LGO SERVICE IN ENGLAND

The Committee was informed that the Government – in its programme of review and revision of public services – had commissioned a review of the Local Government Ombudsman's service.

Members were reminded that in November 2013, Robert Gordon CB had published his report on his governance review of the Local Government Ombudsman Service. He had been invited by the Secretary of State for Communities and Local Government to undertake this at this time because the organisation was in a process of change brought about in no small part by the significant reduction in its funding and that the original three independent Ombudsmen for England model was by now considered to be less than fit for purpose. In the wake of Tony (now Sir Tony) Redman's retirement and the long-term sickness absence of Ms Seex (the second Ombudsman of the triumvirate) the time seemed opportune for a re-appraisal of the service, its governance arrangements and its structure in

order that it could efficiently and effectively discharge its functions in the future. The Report contained five recommendations. Those recommendations were that:

1. There should in future be **one** Local Government Ombudsman presiding over an integrated process for handling complaints against bodies within the jurisdiction of the Local Government Ombudsman Service.
2. An early opportunity should be found to make the limited legislative changes to provide for a single local government ombudsman in England.
3. In recognition of actual, proposed and likely future changes to public service delivery and taking account of pressure on public finances, consideration should be given to the creation of a unified public services ombudsman in the medium term.
4. The Local Government Ombudsman Service and the Parliamentary and Health Service Ombudsman should continue to build on their current commitment to closer joint working, proactively engaging in substantial initiatives to achieve economies, to harmonise processes and to provide the public with a clearer route to redress and
5. The Commission for Local Administration in England should be strengthened by administrative action.

If these proposals were implemented, the Committee was informed that it would probably mark the most significant change to the Ombudsman structure in England since its introduction in 1974.

The Committee **noted** the report and asked that it be kept informed of future progress in relation to these proposals.

34 **REPORT ON THE UPDATE ON LGO ACTIVITY FOR THE YEAR TO DATE**

The Committee was presented with a range of statistical material to show the impact of LGO activity on the Council's services throughout the year to date. Changes to the way in which the LGO operated had had an impact on the way in which she interacted with local authorities. Changes had been seen to the methodology used and decisions reached by the Ombudsman over the past 18 months and the report sought to alert Members to those changes and anticipate what the effects of those changes were likely to have on the relationship between the Council and the Ombudsman in the foreseeable future and whether changes in the way in which the Council managed complaints referred or investigated by the Ombudsman might be necessary.

The previous ten months or so had seen a very noticeable shift in emphasis concerning the treatment of complaints by the LGO. The number of

referrals for example, had dropped to almost zero over the past six months whilst there had been a surge in formal enquiries (usually about whether a complainant had passed through all stages of the council's complaints process) and these had tended to lead to either provisional views (normally confirming that the Council had done nothing wrong) or final decisions (most frequently that the matter was "outside the Ombudsman's jurisdiction").

The net effect was that whilst the number of LGO contacts remained at a level comparable to earlier years, the Council was receiving more enquiries or "instant" decisions and full investigations were few and even then, findings against the Council were rare.

The Committee was asked to note that it might not be a coincidence that during the same period – when the LGO found herself with fewer resources to pursue investigations and had to "cherry pick" which to invest resources in – the number of complainants seeking to have their complaint escalated to Stage Three of the council's complaints process had increased. It was known that whilst the LGO's "Council First" policy (introduced during 2010/11) was designed to deter complainants short-circuiting local authorities' complaints processes and making use of the Ombudsman's service to pursue their complaint against a council on their behalf, the LGO still pursued a respectable number of complaints.

In conclusion, Members were informed that more recently, the insistence that complainants return to council complaints processes appeared more routinely applied and this was borne out in the change in emphasis of the Ombudsman's involvement in matters referred to her. At this point in time it was not possible to predict how the situation would develop. It might be the start of a new trend or could simply be an aberration caused by internal reorganisation and that "business as usual" would return after the current upheaval.

Either way, Members were asked to be aware that – coupled with the Gordon Report already dealt with – it was likely that there could be a prolonged period of change about to encompass the Ombudsman's activities and that would almost certainly require some adaption by local authorities.

The Committee **noted** the report

35 **UPDATE ON STAGE THREE ACTIVITY FOR THE YEAR TO DATE & SUGGESTED CHANGES**

The Committee was reminded that since 2010 the Council had been developing and refining its Corporate Complaints process and, in tandem with it, the transition to Stage Three and the conduct of Stage Three itself has evolved.

The report summarised the changes which the Committee had brought about during that time and made suggestions of further refinements in order to ensure the continued provision of a robust, efficient and cost-effective

service for complainants and the Council especially in the current climate of financial constraint and transformation. Members were reminded that:

- By 2010 the old adversarial form of hearing had been replaced by an inquisitorial one which had speeded up the process and placed the control of the hearing back into their hands.
- In 2012 the Committee had agreed to trialling Initial Assessment Panels (IAPs) - taken from the (by then) defunct Standards Committee - as a way to deal with complaints informally and quickly, without the necessity (and cost) of a formal hearing. The process allowed a complainant to proceed to a formal hearing if the IAP considered that was appropriate.
- Between 2010 and 2012 there had been a dramatic fall in the number of cases being referred to Members, but during 2013 there was a steady rise in Stage Three requests being received and actioned.
- During the past three years there had been changes to the terminology used for the Stage Three process itself which moved from an "Appeal" via "Hearing Request" to the current "Member Review". This last most accurately described the function Members engaged in (particularly but not limited to) the IAP element. Members were invited to consider a complainant's claims in the context of what the Service ought to have been providing and to view that provision (or alleged failings) in the light of reasonableness and natural justice which was consistent with the expectations of such external bodies as the Local Government Ombudsman.
- IAPs were now fixtures in the Council's diary on a monthly basis usually falling on the fourth – but on occasion the third – Thursday of the month. If there were no complaints ready in time, any coming forward would be held over to the next IAP scheduled date. Any complaint adjourned by a Panel could either wait for the following IAP or, if Members are so minded, an ad-hoc meeting could be arranged.

Complaints were now recorded sooner and there was a growing number of complaints which commenced, but not completed either by the complainant withdrawing or by the process stalling because the complainant did not provide the Council with a formal statement of complaint which is the starting-point for Stage Three.

The Committee was asked whether - In order to ensure that complaints did not remain "outstanding" for an unreasonable period of time – it would endorse some form of limitation to the amount of time complainants could be allowed to take without informing the Council of any exceptional circumstances. Currently, every complainant received 20 working days in which to provide their case. How much longer did the Committee consider would be reasonable before the complainant was informed the process had been terminated.

The Committee was also presented with a request to add flexibility to the Stage Three process. From time to time an issue might arise which, by its

very nature (perhaps needing to be handled with sensitivity or involving matters which fell outside the usual scope of corporate complaints), would be inappropriate to follow the normal procedure of issuing a Member Review form and passage through an IAP. In such exceptional circumstances - would the Committee allowing the matter to be dealt with in a more flexible manner, perhaps by proceeding directly to a formal hearing? If the Committee was agreeable, in such cases, the Chairman would be consulted and if agreed, the clerk would make arrangements to deal with the complaint as appropriate.

In conclusion, Members were informed that whatever happened at the forthcoming local elections, there would continue to be a need for complaints to be resolved, if not by officers, then by the review and judgement of Members. Because the position of local authorities was very much in a fluid state – which showed no sign of ending – changes to the way in which complaints were managed and resolved might continue to evolve for the foreseeable future. Unless Members themselves chose to relinquish their role in the process (and Havering was one of a diminishing number of authorities which retained a three stage complaints process in which councillors were a part), there would always be a need to ensure that complaints were effectively and efficiently addressed in a cost-effective manner and this would undoubtedly involve further refinement to the process to make that a deliverable reality.

Whilst it was true to say that 2013/14 had seen an upturn in complaint escalation to Stage Three, the outcomes were more transparent and more easily available to inform future action than at any time previously. As technology (and on-going reduction to Council funding meant that all Council services had to evolve to be more efficient and effective), it was hoped that what was learned from the decisions and outcomes of complaints would become useful tools for ensuring that future service delivery incorporated those outcomes to help raise standards of good practice and help minimise any recurrence of those issues in the future.

The Committee **noted** the report and **decided** to make the following refinements to the Stage Three process.

1. Once a Member Review form had been sent to a complainant, they would continue to be given 20 working days in which to provide a response. If no response was received in that time and there was no indication of any exceptional reason why the form could not be completed and returned, the Stage Three process would be terminated and the complainant informed of their right to approach the Local Government Ombudsman as the Council's Complaints procedure was ended.
2. If an issue arose which, by its very nature (perhaps needing to be handled with sensitivity or involving matters which fell outside the usual scope of corporate complaints), would be inappropriate to follow the normal procedure of issuing a Member Review form and passage through an IAP. The matter would be dealt with in a more

flexible manner, perhaps by proceeding directly to a formal hearing. In such cases, the Chairman would be consulted and if agreeable, the clerk would make arrangements to deal with the complaint as appropriate.

Chairman