



Havering

LONDON BOROUGH

ADJUDICATION AND REVIEW COMMITTEE AGENDA

7.30 pm	Wednesday 4 February 2015	Town Hall Main Road Romford
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Members 10: Quorum 4

COUNCILLORS:

**Conservative
(4)**

Joshua Chapman (Chairman)
Roger Westwood (Vice-Chair)
Meg Davis
Jason Frost

**Residents'
(2)**

John Mylod (Vice-Chair)
Barbara Matthews

**East Havering
Residents'
(2)**

Alex Donald
Brian Eagling)

**UKIP
(1)**

David Johnson

**Independent
Residents'
(1)**

Michael Deon Burton

**For information about the meeting please contact:
Grant Soderberg Tel: 01708 433091
e-mail: grant.soderberg@onesource.co.uk**

Protocol for members of the public wishing to report on meetings of the London Borough of Havering

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 01708 433076 that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE & SUBSTITUTE MEMBERS

(if any) – receive.

3 DECLARATIONS OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 MINUTES (Pages 1 - 8)

To approve as a correct record the Minutes of the meeting held on 4 November 2014 and to authorise the Chairman to sign them.

5 CORPORATE COMPLAINTS: PRESENTATION

A presentation for the last quarter's Corporate Complaints statistics will be given.

6 PRESENTATION - STREETCARE (Pages 9 - 28)

A presentation by Jane Glazebrook on behalf of StreetCare

7 MEMBERS CODE OF CONDUCT COMPLAINTS PROCEDURE (Pages 29 - 64)

8 STAGE THREE COMPLAINTS - UPDATE (Pages 65 - 70)

9 ORAL UPDATE OF LOCAL GOVERNMENT OMBUDSMAN AND STAGE THREE ACTIVITY TO 31 JANUARY 2015

An oral update with charts for both LGO and Stage Three activity

10 LETTER FROM THE LOCAL GOVERNMENT OMBUDSMAN (Pages 71 - 72)

The Chairman will introduce for comment, the letter received from the LGO in response to the letter from the Committee to her in respect of the 2014 LGO Annual Letter.

**Andrew Beesley
Committee Administration
Manager**

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Public Document Pack Agenda Item 4

**MINUTES OF A MEETING OF THE
ADJUDICATION AND REVIEW COMMITTEE
Town Hall
4 November 2014 (7.30 - 9.15 pm)**

Present:

COUNCILLORS

Conservative Group Joshua Chapman (Chairman), Roger Westwood (Vice-Chair), Meg Davis and Jason Frost

Residents' Group Barbara Matthews and +Julie Wilkes

East Havering Residents' Group Brian Eagling and +Darren Wise

UKIP Group David Johnson

Independent Residents Group Michael Deon Burton

Apologies for absence were received from Councillors John Mylod and Alex Donald (Councillors Julie Wilkes and Darren Wise substituted for them respectively)

The clerk, on behalf of the Chairman reminded Members of the action to be taken in an emergency.

There were no declarations of pecuniary interest.

8 MINUTES

The Minutes of the Meeting held on 6 August 2014 were accepted and signed by the Chairman.

9 PRESENTATION BY THE HEAD OF REGULATORY SERVICES CONCERNING COMPLAINTS MANAGEMENT ACROSS THE SERVICE

Members received a presentation from the Head of Regulatory Services who explained that he was taking a different approach to the usual statistics-based format by considering complaints through the complaint routes (Corporate complaints process, LGO, Members) and complaint themes (Customer dissatisfaction, disagreement with decisions, delay, alleged bureaucracy, staff behaviour etc.). He explained that his service areas ranged from Planning/Building Control, through the Bereavement Service (Cemeteries and Crematoria), Public Protection (Environmental Health, Licensing and Trading Standards), Registrars, strategic Development and Transportation Policy and Emergency Planning. He

stated that there were around 150 members of staff across the services and, because of the specialised nature of those services the majority of them were technically or professionally qualified.

The Committee was informed that in the period June 2013 to September 2014, whilst just under half of the complaints recorded at Stage One concerned the Bereavement Service (70), the conciliatory approach by its staff in this emotionally sensitive area, ensured that very few progressed further. The second highest Stage One complaint area was Environmental Health (36), but at Stage Two, Environmental Health accounted for half of the complaints (12) whilst Cemeteries and Crematoria had shrunk to only two.

Continuing the themed approach, the head of Regulatory Services explained how – by learning from examples of good practice – his services had shifted their attitudes from a purely process-focussed approach to one which was outcome orientated with staff – whilst remaining professional – were also approachable. This, he said, almost always diffused potentially confrontational situations and, by empathising with the complainant and taking time to explain (in plain English) the issues involved, it had been possible to ensure that even if the complainant did not like the decision, by understanding the reasons behind it, the likelihood of the complaint being escalated became significantly reduced.

He stated that this change in the perception of how complaints could be better addressed translated itself into pro-active ways of working, for example: using historical records to inform the present position, assessing site conditions, more joint and cross-service working, liaising closely with external partners, identifying potential problems early on and addressing them fully at the earliest stage possible before they could escalate.

The Committee was then provided with three examples of how the process had been applied in practice involving an issue which had had the potential to be a major issue involving a family who had been misinformed about the site of the plot where a family member had been buried. This had been a highly emotive and embarrassing situation which, through the sensitivity and tact of staff, had been resolved to the satisfaction of the family. Another example involved a planning issue and an intractable resident who, after having the situation explained, appreciated the position and, whilst not liking the decision accepted that it was the only realistic option available. The third example involved a property which had, over a number of years become not only an eye-sore but dangerous and which, after at least two court appearances and enforcement action, was only resolved by the service taking direct action to remove scaffolding and get the area cleaned up.

In addition he informed Members that the learning process was on-going; that staff were regularly updated with developments; that they were involved from the outset in the complaint resolution; that there was a great deal more cross-service exchange of thought to ensure a seamless service provision; that a cross service complaint protocol was invoked this year to ensure that a lead officer had oversight whenever more than one agency was involved

and that processes were revised regularly (facilitated by regular team meetings and one-to-one's).

In conclusion, he mentioned compliments and gave a few examples which, he assured Members, demonstrated the success having a policy of staff "going the extra mile", being professional, showing empathy and being helpful.

The Committee **noted** the scope and content of the presentation and thanked the Head of Regulatory Services for his highly informative and most encouraging presentation.

10 **PRESENTATION BY THE HEAD OF BUSINESS & PERFORMANCE CONCERNING CORPORATE COMPLAINTS**

Members received a presentation from the Corporate Policy and Diversity Team Leader providing them with an update on Corporate Complaints, Member and MP Enquiries for the three months from 1 July – 30 September 2014. The Committee was informed that

Corporate Complaints:

- The total number of complaints logged at Stage 1 on CRM between July and September had risen: 308 (2013) and 572 (2014) – though part of the latter figure included complaints recorded on the Housing Service's OHMS system and would not have been included in the previous report
- 572 Stage One complaints had been investigated with 498 being resolved within 10 working days (Q2 2014)
- Of those completed over the 10 working days, 46 were completed under 15 working days and 27 were completed within 40 working days
- 32 (5.30%) complaints had been escalated to Stage Two (the target was not to exceed 10%)
- Performance had, during the period, improved. 87% of Stage One complaints were completed within 10 working days (Q2 2014), compared to 80% (Q2 2013). Performance had stayed the same at 87% since the previous quarter (Q1 2014) and the target was 90%
- The two areas with the highest number of Corporate Complaints logged on CRM were Homes & Housing (344) and StreetCare (122)

The services with the highest proportion of complaints remained the outward facing ones: StreetCare (131) and Homes and Housing (315). Regulatory Services (which now included Trading Standards, Licensing and Environmental Health) had 38 cases.

Member & MP Enquiries:

In the same period, MP and Member enquiries

- 1,234 Member / MP Enquiries were received (90 of which were recorded on the Housing OHMS system and which would not have been included in the previous year's figures). Of these 976 (79.09%) enquiries were completed within 10 working days.

- By comparison, between 1 July and 30 September 2013 1,139 Members / MP Enquiries were logged. Of these 1,000 (87.80%) enquiries were completed within 10 working days.
- In the previous quarter (1 April to 30 March 2014), 840 Member / MP Enquiries had been received (108 of which were logged on OHMS) and of these 661 (78.69%) had been completed within 10 working days.

Of these, StreetCare (832) and housing (260) received the majority of Members / MP enquiries and the total number of enquiries logged on CRM had increased from 1,139 in Q2 2013/14 to 1,234 in Q2 2014/15 (but the latter figure included cases recorded on OHMS which were not on previous reports) and the total number of enquiries logged on CRM in Q1 was 850.

1,234 Member Enquiries were investigated with 976 being resolved within 10 working days and of those completed over the 10 working days, 125 were completed within 15 working days and 135 went over 15 working days, but all were completed by 65 working days.

The Committee was informed that performance had declined year on year: 79% (976 of 1,234) of enquiries were completed within 10 working days (Q2 2014), compared to 88% (1,000 of 1,139) (Q2 2013) but had improved since the previous quarter 78% (661 of 850) this year. The target remained 90%

In conclusion, Members were informed that plans were already in hand to streamline the complaints process further and make it more effective by:

- Setting up a complaint best practice group: This would be a group to share best practice, better understand complaint issues, solve problems staff were encountering and improve outcomes.
- Producing Member Enquiries forms online. Members would then be able to use the forms to log enquiries through the Portal. These had now been drafted and were awaiting testing. It was anticipated that they would go live before Christmas.
- To accompany this, there would be additional Portal Training for Members. In order to deliver this, one-to-one training sessions for Members on using the Portal would be set up. It was considered appropriate to do this in order to
- Increase the use of the Portal. Currently only 18 Members had logged an enquiry through the Portal. The iPad user group and Members Development group would be involved in order to increase Member awareness and encourage more Members to use the facility – which would assist speeding up the process

A Member observed that when trying to use the Portal, they had encountered difficulties in completing the transaction. The Corporate Policy and Diversity Team Leader stated that this would be taken back and the technological elements investigated, whilst the other requests, such as: sharing information with other Members, identifying individual complaints by respondents so that they were immediately clear which one was being replied to and a request to be able to attach photographs would also be discussed and reported back to the Committee.

The Committee **noted** the oral update and thanked the Corporate Policy and Diversity Team Leader for her presentation.

11 **REVISION OF THE FORMAL PROCESS FOR MEMBERS' CONDUCT COMPLAINTS - ORAL UPDATE**

The Head of Legal Services reminded the Committee that when the Standards Committee was removed in 2012, Council had adopted a protocol and process for considering complaints against Members alleged to be in breach of the Members' Code of Conduct.

He stated that it had been the (then) Administration's intention to review and, if and where necessary, revise that procedure in the light of experience, but that in the intervening two years there had been no occasion for undertaking this work. He added that now the new Administration was settling in and newly elected Members had had time to become familiar with the current processes, it was an opportune moment to review the protocol, the process and even the forms and, where necessary revise the current procedure and make it more robust, transparent and easy to access.

The Head of Legal Services explained that in order to ensure this was completed in a timely manner, he was asking the Committee to approve a proposal to hold meetings with other officers involved in the process to review other procedures and models from a range of other authorities and to draft a base document for consultation with the Chairman and from this, to bring a report to the Committee for its approval at its next meeting in the New Year.

The Committee **noted** the request of the Head of Legal Services and **endorsed** his proposed approach.

12 **UPDATE ON STAGE THREE ACTIVITY**

The committee's attention was drawn to the information within the Supplementary Agenda concerning recent Stage Three activity and activity for the year to date. The Committee was informed that whilst it was impossible to identify trends, it was possible to see shifts in complaint emphasis over time. By way of example, Members were informed that two years ago there had been a higher percentage of planning cases coming to them, but now the large percentage involved housing (Private Sector leasing in particular) and StreetCare (complaints involving Penalty Charge Notices took precedence here).

The Committee was reminded that the various ombudsmen had, along with all other public bodies, been adversely affected by the Government's budgetary reductions. In the case of the Local Government Ombudsman, her funding had been cut by over one third and, as a direct result of this, the

Ombudsman had reduced her staff and changed her working practices the net result of which was that fewer cases were being referred back to the Council (either as Prematures (to be considered through the Corporate Complaints process) or direct investigations.

These changes meant that more complainants were being “referred to the local authority”. This was, in effect, adding pressure to the Corporate Complaints process as more complainants were being told to pursue the matter through all stages of that complaints process. This was one of the factors underlying the steady rise in Stage Three numbers:

- For the year 2012/13 there had been 16 cases notified, but six were carried forward
- In the following year 2013/14, 14 cases were notified. All six of the cases from the previous year were dealt with, but at 31 March, six cases were carried forward as “pending”.
- For the current year to date, in addition to the six cases brought forward, there have been an additional 24 notifications.

Whilst not every case proceeded even to an Initial Assessment Panel – and within the previous 18 months none had been referred to a formal hearing - it was clear that at the very least, more complainants were insisting that their case be considered by Members. Whether this year-on-year rise in complaint escalation was likely to continue was a moot point, though with increasing pressure on the provision of services from a decreasing workforce and an ombudsman service unable to process the complaints it was receiving, it could be predicated that this could well be the case for the foreseeable future. Members were invited to consider whether the Stage Three process could be refined and steam-lined in order to anticipate potential rises in Stage Three volumes.

The Committee **noted** the report.

13 **STAGE THREE COMPLAINTS - CHANGES TO FORMAT**

The Committee received a report which reminded it about the changes to the process wrought over the past three or four years and how those changes had moved the process away from mandatory (and costly – in time and money) adversarial hearings, first to inquisitorial style hearings and from there (with the introduction of the IAP) towards a more informal, flexible and less costly process of Member “reviews”.

The Committee was reminded that at the previous meeting they had been informed of an evolutionary development to this part of the process which was designed to ensure that it accurately reflected what the IAP had become (an actual “Member Review” with the panels having a full range of decision-making and recommendatory and directing authority and that any referral to a formal hearing ought to be before the same panel members in order that there was no need for a different set of Members to become involved, Members who might have a completely different perspective on

the issues before them to those who originally received the complaint details.

The Committee was asked to decide whether it would recognise the changes to the IAP – that it had evolved into a “Member Review Panel” and whether it agreed to the changes to the process which would see the members of a review panel, should they decide the issues required a formal hearing, being the Members who would sit on that panel and there be joined by an Independent Person.

A Member observed that at its last meeting the Committee had already given its consent to the change of name from “Initial Assessment” to “Member Review” panel. In response, Members were assured that this had been recognised, but that the report before them was designed to carry both elements to the Governance Committee in order to ensure only one update to the Constitution was necessary.

With the provision that the recommendation about the name change was purely formal, the Committee:

1. **Reconfirmed** the change of terminology (Initial Assessment panels to become Member Review panels).
2. **Agreed** to remove the requirement to form a hearing panel from Members who were not part of the reviewing panel as this would contribute to a greater efficiency of resources and would not involve duplication of effort.
3. **Authorised** a report to be sent to the Governance Committee to ensure changes to the Constitution reflected the change in nomenclature and process.

14 **UPDATE ON LGO AND HOUSING OMBUDSMAN ACTIVITY TO END OF OCTOBER**

Members’ attention was drawn to the charts contained within the Supplementary Agenda and they were given a brief summary of developments in the year to date – including being asked to note that the number of complaints received from the LGO in the months April to October (28) were around half the average number of cases received for the five years between 2008 – 2012 (56). This was the last year in which the LGO had her full funding. The figure for the year 2013 – the year of transition - was 49. The Committee was informed that the highest number of complaints received by the Council – back to 1998 when records were less complete – was in 2005 when by 31 October the Council had been notified of 76 complaints, though Members were informed that this was a singular circumstance as that was the year when Langton’s Registry Office was found to have failed to renew its premises licence and some 26 couples (from 104 marriages conducted during the period the premises was unlicensed) had complained to the Ombudsman.

Tabled at the meeting was a draft letter for the Committee to approve, addressed to the Local Government Ombudsman in response to her Annual Letter and which it had asked to be drafted.

The Committee:

1. Noted the LGO and HOS statistical information
2. The Committee **approved** the wording of the draft letter and authorised the Chairman to sign it and forward it to the Ombudsman to initiate a review of the current Code of Conduct and directed that five other codes be provided to it for comparison and that this be available for the next meeting.

Chairman

Adjudication & Review Committee

4 February 2015

**StreetCare
Complaint Handling**

Streetcare Comprises

- Environmental Maintenance and Waste Services:
 - Street Cleansing
 - Shrub Maintenance / Landscaping
 - Highway Trees
 - Waste contract monitor
 - Recycling initiatives and campaigns
 - Enforcement
- Highways
 - Highway Maintenance (planned and reactive)
 - Street Lighting
 - Traffic Engineering
 - Co-ordination of works on the public highway
 - Highways DSO
- Traffic and Parking Control
 - Parking Enforcement
 - Car Parks
 - Parking Schemes

Complaint Routes

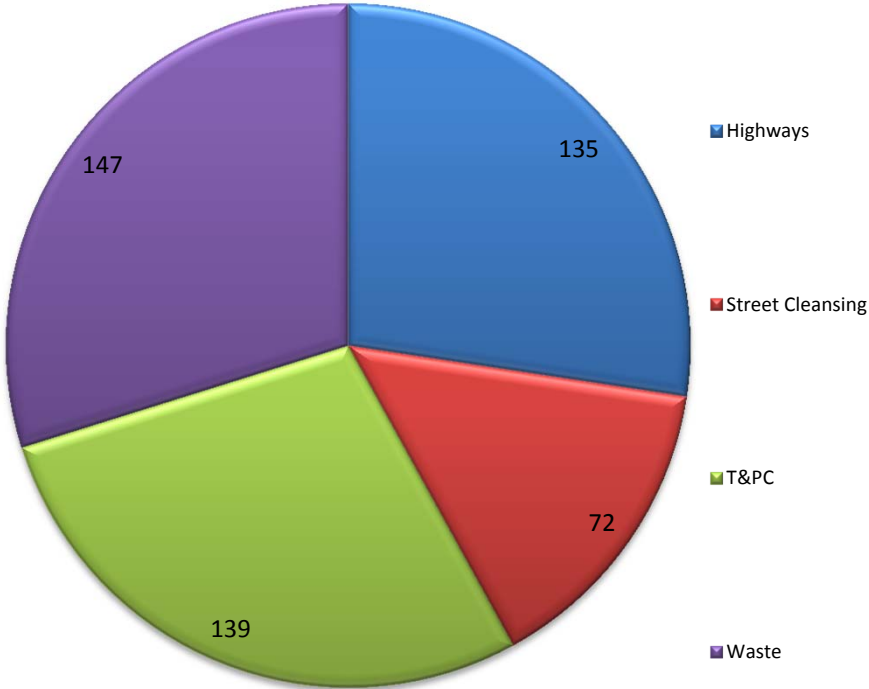
- Corporate Complaint System (CRM)
- Complaint stages – 1, 2 & 3 (procedure to be amended)
- Local Government Ombudsman
- Members
- Applies to all services

Complaint Themes

- Dissatisfaction with Service level/quality
- Disagreement with a decision
- Delay in dealing with a request
- Expression of dissatisfaction with Council policy
- Staff behaviour
- Used as a route to appeal Penalty Charge Notices

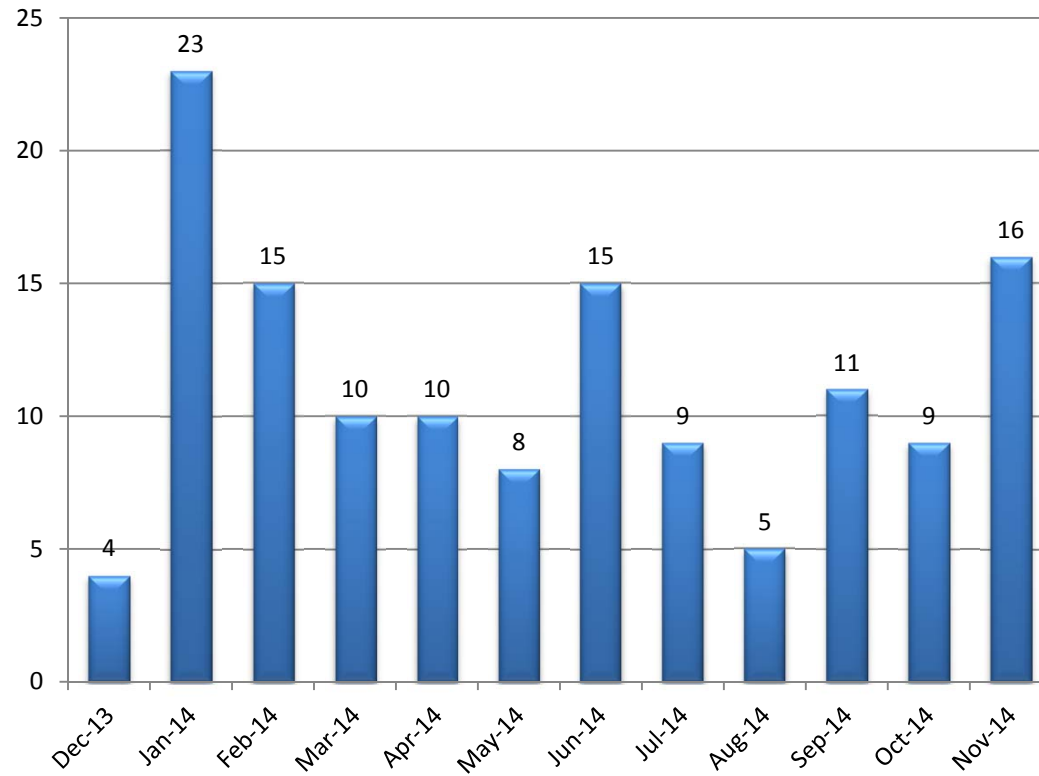
StreetCare Overview

- **Stage 1 Complaints (Dec 13 – Nov 14)**



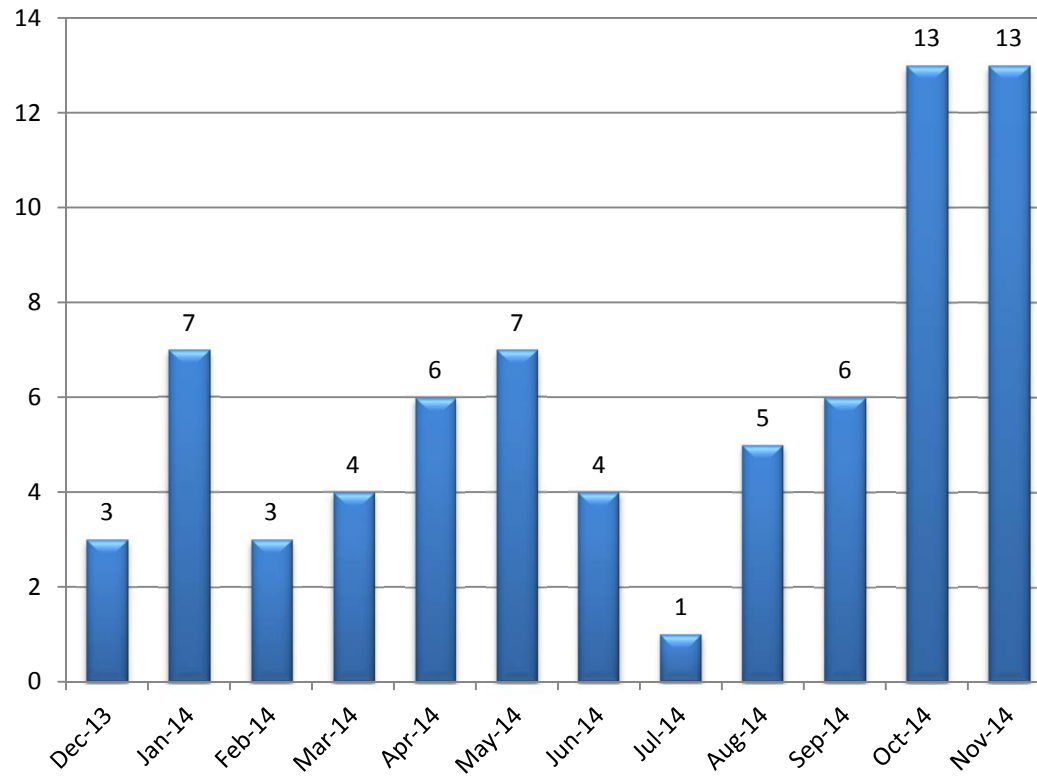
Highways Overview

- **Stage 1 Complaints**



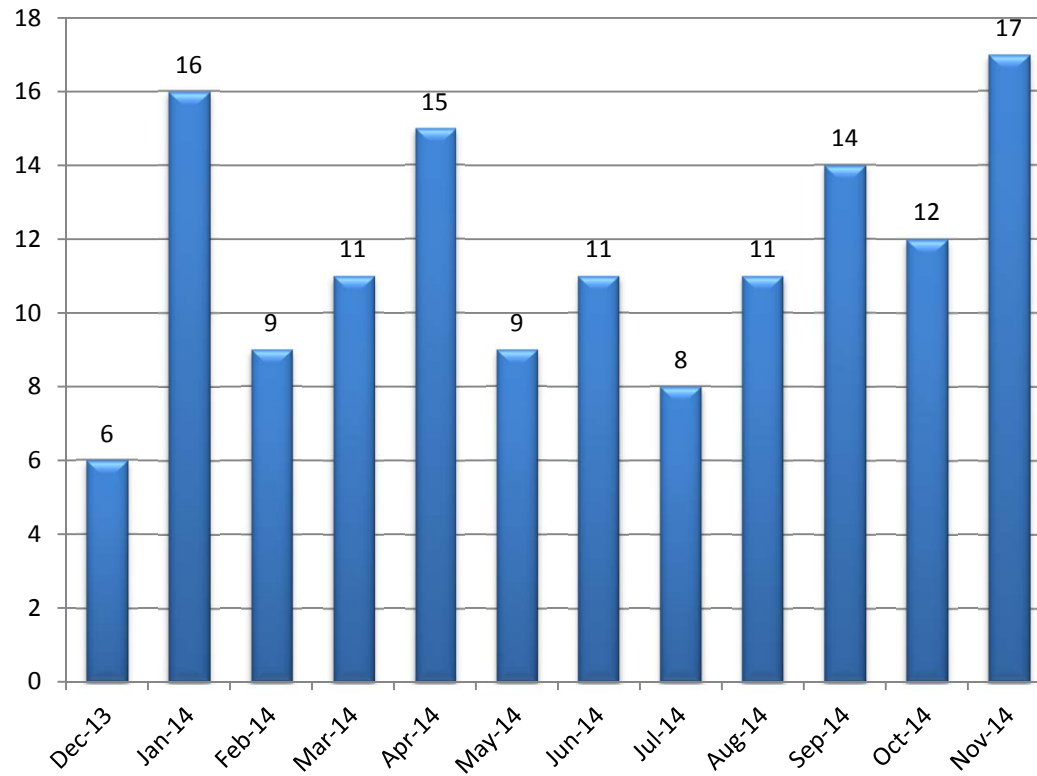
Environmental Maintenance Overview

- **Stage 1 Complaints**



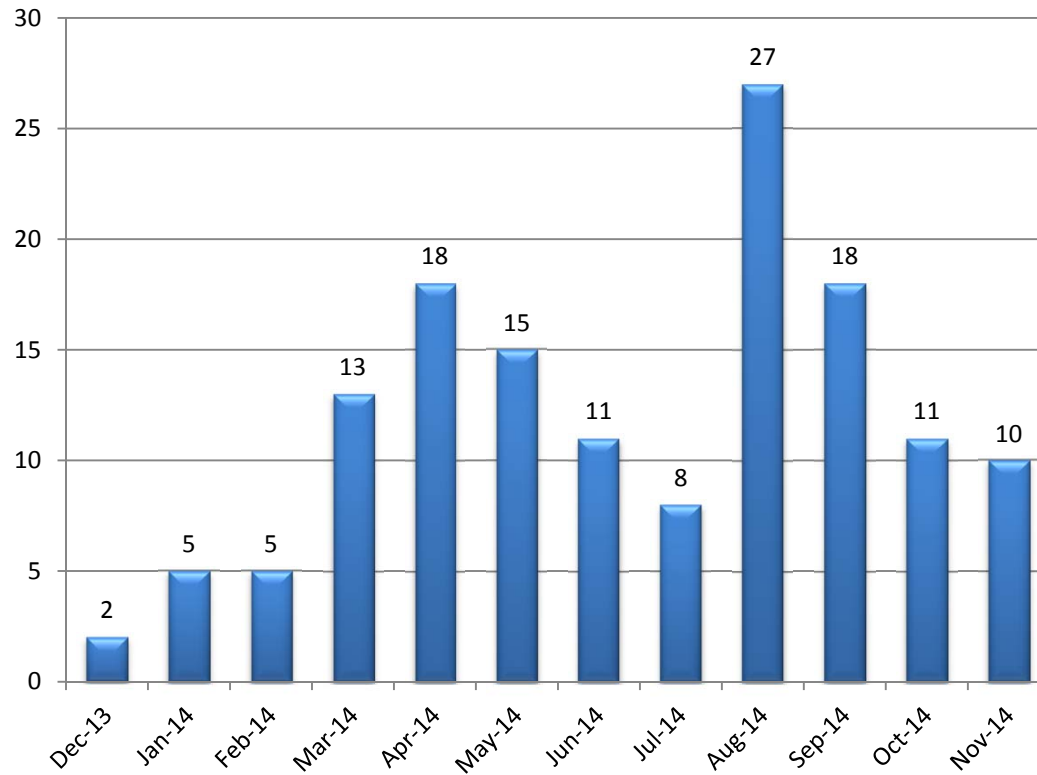
Traffic and Parking Control Overview

- **Stage 1 Complaints**



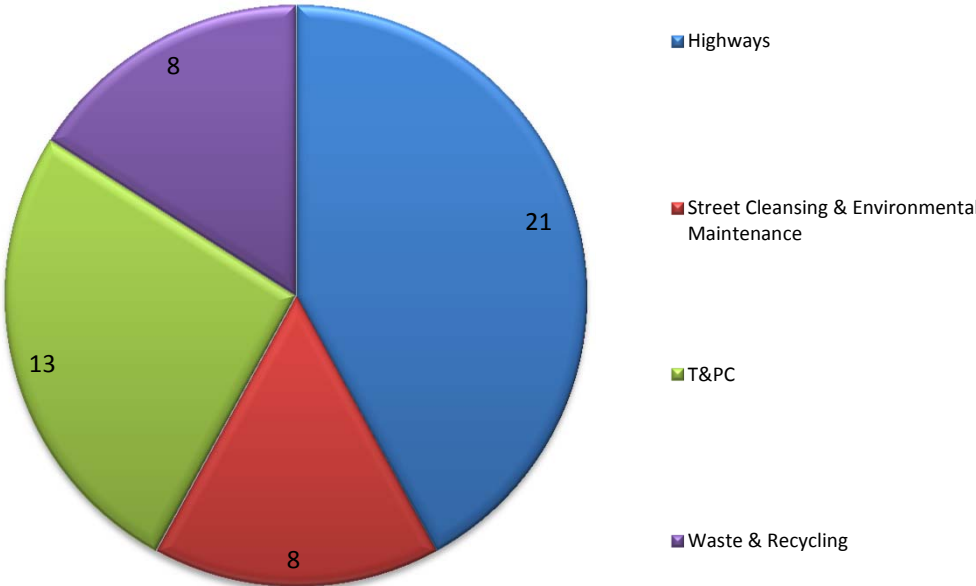
Waste and Recycling Overview

- **Stage 1 Complaints**



StreetCare Overview

- **Stage 2 complaints (Dec 13 – Nov 14)**



StreetCare Complaints - performance

	Stage 1				Stage 2	Stage 3
	Number Logged	Completed in 10 days	Completed in 10 days (%)	Completed over 10 days	Number Logged	Number logged
December 2013	15	9	60%	6	3	
January 2014	51	43	84%	8	3	1
February 2014	32	24	75%	8	3	1
March 2014	38	37	97%	1	4	1
April 2014	50	42	84%	8	3	
May 2014	40	33	83%	7	2	
June 2014	41	28	69%	13	9	
July 2014	25	19	76%	6	4	
August 2014	49	36	73%	13	4	
September 2014	48	41	85%	7	6	1
October 2014	45	34	74%	11	5	
November 2014	56	42	75%	14	4	1
Total	165	135	82	29	24	5

How we learn from complaints

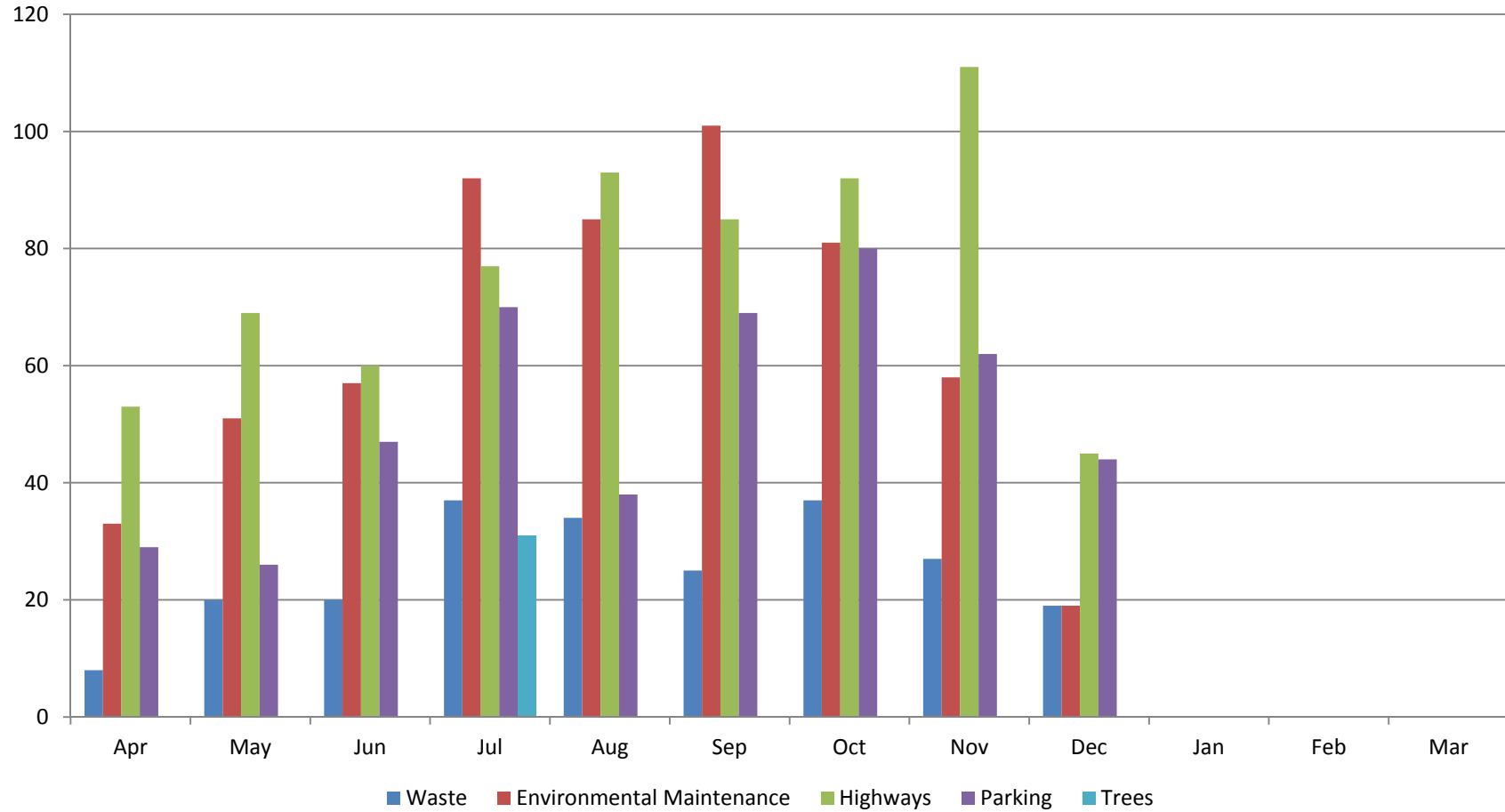
- Reoccurring themes
- Single point of contact
- Customer focussed – what is it the customer expects
- How to give a negative response in a positive manner
- Share with Group Managers – to include in 121 meetings, review processes & procedures

Members enquiries

- StreetCare receive far more queries than any other service area
- Varied enquiries – policy, service requests, non-Council related issues
- On-line portal

Members Correspondence

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Complaints - 3 example cases

1. Abandoned vehicle
2. Civil Enforcement Officer
3. Fly tipping

Abandoned vehicle

Page 24



Civil Enforcement Officer



Fly tipping



Compliments

Main themes:

- Staff going extra mile (street cleansing staff)
- Resolving an issue quickly
- Staff manner/helpfulness, sometimes in difficult situations

Questions

ADJUDICATION AND REVIEW COMMITTEE

Subject Heading:	Members Code of Conduct Complaint Procedure
CMT Lead:	Andrew Blake-Herbert
Report Author and contact details:	Graham White, Interim Head of Legal Services Graham.white@havering.gov.uk 01708 432484
Policy context:	Providing clear guidance to Members – ensure efficient use of Council Resources
Financial summary:	While there are no specific material financial implications, the proposed changes are designed to promote a more efficient use of council resources.”

The subject matter of this report deals with the following Council Objectives

- Ensuring a clean, safe and green borough □
- Championing education and learning for all □
- Providing economic, social and cultural activity □
- in thriving towns and villages □
- Valuing and enhancing the lives of our residents □
- Delivering high customer satisfaction and a stable council tax □

SUMMARY

Arrangements for dealing with allegations that a Member or a Co-opted Member has failed to comply with the Members’ Code of Conduct.

RECOMMENDATIONS

The Adjudication and Review Committee is recommended to:

- (i) Approve the Arrangements for dealing with allegations that a Member or a Co-opted Member of the London Borough of Havering has failed to comply with the Members’ Code of Conduct as attached at Appendix 1.

- (ii) Invite the Governance Committee to include the Arrangements in the Council's Constitution.

REPORT DETAIL

1. Background

- 1.1 The Localism Act 2011 amended the statutory provision of an ethical framework for local authority Members and Co-opted Members. The primary requirement was that authorities must promote and maintain high standards of conduct and in discharging that duty must adopt a code dealing with the conduct that is expected of Members and Co-opted Members when they are acting in that capacity. This Council has adopted such a code which is in the Council's Constitution and to which each member and Co-opted Member has undertaken to abide.
- 1.2 Section 28 of the Localism Act 2011 provides that in addition to adopting a Code of Conduct pursuant to the revised ethical framework, an Authority must have in place arrangements under which allegations (of breach) can be investigated and arrangements under which decisions on allegations can be made.
- 1.3 The Adjudication and Review Committee has requested a review of the current arrangements which has been undertaken by the Deputy Monitoring Officer together with Democratic Services officers and revised arrangements attached at Appendix 1 are submitted to Committee for consideration.

2. Detailed Provisions

- 2.1 The revised arrangements provide that an allegation of a breach of the Code of Conduct by a Member/Co-opted Member shall be made to the Monitoring Officer who shall make an initial assessment of the validity of the allegation. The Arrangements provide a number of reasons why the Monitoring Officer may determine that the allegation does not merit any further action or endeavour to reach an informal resolution to the satisfaction of the parties.
- 2.2 If none of these reasons apply or an informal resolution is not achievable, the Monitoring Officer shall refer the allegation to an Adjudication and Review Assessment Panel which may either dismiss the allegation or decide that it merits further investigation. In the former case reasons must be given and in the latter the Monitoring Officer is requested to conduct an investigation. The Monitoring Officer may appoint an Investigating Officer.

- 2.3 Following the investigation, an Investigation Report is submitted to the Adjudication and Review Assessment Panel. Depending upon whether the report concludes that there is/is not evidence of failure to comply with the Members' Code of Conduct, the Assessment Panel may dismiss the allegation, remit the report to the Monitoring Officer for further consideration, or refer it on to the Adjudication and Review Hearing Panel to conduct a hearing.
- 2.4 Detailed provisions for how a hearing should be conducted are set out in the arrangements. The Panel will conduct hearings in an inquisitorial manner rather than in an adversarial manner. Members who are not members of the Panel or party to the proceedings may attend hearings but must withdraw when the Panel deliberates upon its determination.
- 2.5 Where the Panel determines that there has been a breach of the Code of Conduct, the Panel shall then determine the sanction/penalty, if any, following representations from the Member/Co-opted Member who has been found to be in breach.
- 2.6 Before any decisions are made by the Panel, the Localism Act 2011 requires that the views of the Independent Person be sought and taken into account.
- 2.7 It is proposed that there is no appeal from the final determination of an allegation at any stage in the process, either by the person making the allegation or the Member/Co-opted Member against whom the allegation is made.
- 2.8 It would be inappropriate for a person making an allegation to have the capacity to challenge the Monitoring Officer's determination or interpretation of the allegation which could lead to unnecessary disputes. The Monitoring Officer must be assumed to act in good faith and lawfully at all times. An aggrieved person making an allegation could always challenge the Monitoring Officer's decision by way of complaint to the Ombudsman if the person perceived maladministration or by challenge to the court upon an application for Judicial Review if the person perceived that the decision was unlawful.
- 2.9 Similarly with a determination by the Assessment Panel. If a decision is made to dismiss an allegation for specified reasons the considerations referred to in the previous paragraphs refer equally here. Where a decision is made for an allegation to be investigated, the determination is deferred to a later stage in the process.
- 2.10 The aspect which is likely to prove to be more controversial is in respect of an appeal from a decision of the Hearings Panel. In line with the arrangements in other authorities (a sample of about 15 other authorities has been reviewed) there is no appeal proposed from a determination of the Hearings Panel. There are a number of reasons for this:

- 2.10.1 Firstly, a member found to be in breach of the code may seek to appeal the decision regardless of merit in the hope that another Panel of Members might come to a different decision. A Member would have nothing to lose by so doing. From the Council's perspective this would drag out the process for several months and incur additional cost and time in organising what would in effect be a re-run of the hearing.
- 2.10.2 Secondly, it would prove difficult if not impossible to establish an Appeal Panel. The Adjudication and Review Committee is comprised of 10 Members. 3 have taken part in the Initial Assessment Panel. The same 3 may form the Assessment Panel for consideration of the Investigation Report but if that is not possible another 3 Members may be called upon. A further 3 Members would comprise the Hearing Panel. If up to 9 Members have participated by the time the Hearing Panel has made its decision there would be an insufficient number of Members who have not had any involvement to form an Appeal Panel.
- 2.11 If the Adjudication and Review Panel could not determine an Appeal because of Members who have already participated, the only place for an Appeal to be heard would be at full Council. It is wholly inappropriate for a matter of this nature to be considered by full Council which due to the political nature of its considerations is not best suited to the determination of a quasi-judicial matter. Moreover, with the withdrawal of those Members who have already participated together with the Member against whom the allegation was made, full Council would be a much reduced forum which could affect the political balance. Whilst political balance should not play a part in matters of this nature, it would be unrealistic to imagine that it could be set-aside totally in the context of full Council. However, that inability to set aside political considerations would render any decision more likely to challenge and potentially much harder to defend.
- 2.12 For the foregoing reasons it is considered that the arrangements are more robust and the Council better protected by having no appeals to determinations within the process. External scrutineers in the form of the form of the Local Government Ombudsman or the High Court are in a much better and independent position to review any determination.

IMPLICATIONS AND RISKS

Legal implications and risks:

1. Section 28 of the Localism Act 2011 provides that an Authority must revise its existing Code of Conduct having regard to the statutory changes to the ethical framework whereby an authority fulfils its statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members. The Council

has revised its code in the light of those matters and the Member's Code of Conduct forms part of the Council's Constitution. All Members and Co-opted Members have signed an undertaking to conduct themselves in accordance with the Code.

2. The Section also provides that an Authority must have in place arrangements under which allegations (of failure to comply with the Code of Conduct) can be investigated and arrangements under which decisions on allegations can be made. The Arrangements attached at Appendix 1 meet these criteria.
3. Additionally, an authority is required to appoint at least one Independent Person whose views are sought and taken into account by the Authority before it makes its decision on an allegation that it has decided to investigate. Further that the views of the Independent Person may be sought in relation to an allegation in circumstances other than the foregoing, and by a Member/Co-opted Member who is the subject of the allegation. The Council has appointed appropriate Independent Persons and the Arrangements attached at Appendix 1 make provision for all the statutory requirements to be met.

Financial implications and risks:

This report proposes a revised set of arrangements for dealing with allegations that a Member or a Co-opted Member has failed to comply with the Members Code of Conduct. The proposed changes seek to, amongst other things, streamline procedure, and this should lead to a more efficient use of Council resources. There are no other specific material finance comments.

Human Resources implications and risks:

There are no HR implications or risks arising directly as a result of this report. The Council's Monitoring Officer is fully aware of their statutory obligations and responsibilities with regard to dealing with any allegations against Members.

Equalities implications and risks:

The Public Sector Equality Duty says that public bodies must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between different groups
- Foster good relations between different groups.

The Council has the duty to act, and is committed to all the above in its recruitment and employment practices and the provision and procurement of its services. This can also apply to elected members if they do something in a discriminatory manner when undertaking council business.

Adjudication & Review Committee, 4 February 2015

It is advisable that elected members undertake equality & diversity training to ensure that they do not act discriminatory while undertaking council business.

Individuals involved in Member Code of Conduct Complaints Procedure should receive Equality & Diversity Training to ensure the Council and its elected comply with the Equality Act, especially when it is equality related breaches of Members Code of Conduct. This should include elected and co-opted members, as well as the Monitoring Officer.

Reasonable adjustments should be made for disabled elected members to ensure they can fully participate in the member Code of Conduct Complaints Procedure.

BACKGROUND PAPERS

None

LONDON BOROUGH OF HAVERING

Arrangements for dealing with allegations that a Member or a Co-opted member of the London Borough of Havering has failed to comply with the Members' Code of Conduct

1. INTRODUCTION

- 1.1 These arrangements set out how an allegation may be made that an elected Member or Co-opted Member of the London Borough Havering has failed to comply with the Members' Code of Conduct and how the Council will deal with such allegations.
- 1.2 Under Section 28 of the Localism Act 2011 the Council must have arrangements in place whereby allegations can be investigated and decisions upon them can be made. In addition the arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision and who may be consulted by the Council at other stages in the process or by the Member/Co-opted Member against whom an allegation has been made. The arrangements fulfil the Council's statutory obligations.
- 1.3 In these arrangements a number of terms are used which have the following meanings.

Member	An elected Councillor
Co-opted Member	A person who is not an elected Member of the Council but has been appointed to a committee or sub-committee of the Council

Monitoring Officer	An officer of the Council designated under Section 5 of the Local Government and Housing Act 1989 to undertake the statutory duties prescribed which include ensuring that the Council and its Members and Officers act lawfully at all times. Under Section 29 of the Localism Act 2011 the Monitoring Officer must establish and maintain a Register of Interests of Members and Co-opted Members.
Investigating Officer	An appropriate person appointed by the Monitoring Officer to conduct an investigation into an allegation.
Independent Person	A person appointed by the Council pursuant to Section 28 of the Localism Act 2011 whose views are sought and taken into account before decisions upon allegations against Members/Co-opted Members are taken and who may be consulted by a Member/Co-opted Member who is the subject of allegations or by the Council generally.
Adjudication and Review Assessment Panel	An ad hoc Panel of three Members taken from the membership of the Adjudication and Review Committee established to decide whether allegations against Members/Co-opted Members are worthy of investigation.
Adjudication and Review Hearing Panel	An ad hoc Panel of three Members taken from the membership of the Adjudication and Review Committee established to conduct Hearings into allegations of breaches by Members/Co-opted Members of the Members' Code of Conduct

2. THE MEMBERS' CODE OF CONDUCT

- 2.1 The Council has adopted a members' Code of Conduct which is available on the Council's website and on request from the Monitoring Officer.

<https://www.havering.gov.uk/Pages/Category/Councillors.aspx?l1=90001>

3. MAKING AN ALLEGATION

- 3.1 Allegations concerning possible breaches of the Code of conduct should be made in writing to:

Monitoring Officer

London Borough of Havering

Town Hall,

Main Road,

Romford RM1 3BD

Tel: 01708 432484

Or by email to complaints@havering.gov.uk marked for the attention of the Monitoring Officer.

- 3.2 It is preferable that allegations are made on the form available on the Council's website:

[Insert link to form (not yet available)]

- 3.3 It is important that a person making an allegation provides his/her name and a contact address or email address so that the Monitoring Officer can acknowledge receipt of the allegation and keep the person informed of its progress.
- 3.4 The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests. The Monitoring Officer has to balance the rights of the Member/Co-opted Member

to understand who is making an allegation against them, against the rights of the person making the allegation who will have to provide reasons why their name and/or address ought to remain confidential

- 3.5 If the Monitoring Officer accepts the reasons for maintaining anonymity and the name and/or address of the person making the allegation will not be disclosed to the Member/Co-opted Member without prior consent.
- 3.6 If the Monitoring Office does not consider those reasons justify anonymity, the person making the allegation will be given the opportunity to withdraw the allegation if they do not wish to proceed without anonymity.
- 3.7 Even where anonymity is agreed at the outset it may not always be possible to maintain that anonymity throughout the entirety of the process. For example, the person making the allegation may be requested to give evidence at a Hearing. If anonymity cannot be maintained the Monitoring Officer will liaise with the person making the allegation to establish whether the person wishes to continue with the allegation or withdraw it.
- 3.8 The Council does not normally investigate anonymous allegations unless there is a clear public interest in so doing.
- 3.9 The Monitoring Officer will acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
- 3.10 The Monitoring Officer will inform the Member/Co-opted Member against whom an allegation has been made and will give details of the allegation and the remedy sought by the person making the allegation. In exceptional circumstances the Monitoring Office has discretion not to inform the Member/Co-opted Member if in his/her opinion to do so would risk an investigation being frustrated or prejudiced in some way.

4. ASSESSMENT OF AN ALLEGATION

- 4.1 The Monitoring Officer will review every allegation received and may consult the Independent Person before taking a decision as to whether or not the allegation merits reference to an Adjudication and Review Assessment Panel.
- 4.2 If the Monitoring Officer requires additional information in order to reach a decision, he/she may revert to the person making the allegation for such information and may request information from the Member/Co-opted Member against whom the allegation is directed. If the person making the allegation fails to provide the additional information requested, the allegation may be dismissed by the Monitoring Officer pursuant to Paragraph 4.4(a), below.
- 4.3 The Monitoring Officer will use a number of criteria for assessing allegations and may consult the Independent Person and if necessary the appropriate political Group Leaders. The decision whether to submit the allegation to an Adjudication and Review Assessment Panel will be a proportionate response to the issues raised and likely outcomes.
- 4.4 The Monitoring Officer may determine that an allegation does not merit any further action where:
- (a) There is insufficient information upon which to base a decision and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently; or
 - (b) The allegation is about someone who is no longer a Member/Co-opted Member of the Council; or
 - (c) The allegation does not demonstrate a breach of the Members' Code of Conduct; for example the allegation relates to matters whilst the Member/Co-opted Member was not acting in his/her official capacity but rather relates to their private life to which the Code does not apply or it is about dissatisfaction with a Council decision or service; or

- (d) The same or a similar allegation has been investigated and determined;
or
- (e) It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Members' Code of Conduct; or
- (f) The allegation is considered to be frivolous or vexatious; or
- (g) The matters to which the allegation refers took place longer than three months before the date of receipt of the allegation and there are no exceptional circumstances which merit the investigation of matters outside that timescale, nor is it otherwise appropriate to investigate the allegation; or
- (h) The Member/Co-opted Member about whom the allegation is made has admitted making an error and/or has apologised and the matter would not warrant a more serious sanction; or
- (i) The Monitoring Office facilitates an informal resolution. This may involve the Member/Co-opted Member accepting that his/her conduct was inappropriate or otherwise unacceptable and offering an apology and/or taking other remedial action. If the Monitoring Officer considers an offer of informal resolution is reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Adjudication and Review Panel for consideration.

4.5 If the allegation is dealt with under Paragraph 4.4 above, the Monitoring Officer shall notify the person making the allegation and the Member/Co-opted Member of the outcome giving reasons for the decision. Normally such notification shall be given within 20 clear working days of receipt of the allegation.

4.6 Except as provided for in Paragraph 4.4 above, the Monitoring Officer shall refer all allegations to an Adjudication and Review Assessment Panel for

consideration which normally shall meet within 20 clear working days from receipt of the allegation.

- 4.7 Where the Monitoring Officer refers an allegation to an Adjudication and Review Assessment Panel for consideration, the Panel shall determine whether the allegation:
- (a) Merits no further investigation and is dismissed; or
 - (b) Merits further investigation
- 4.8 An Adjudication and Review Assessment Panel may determine that an allegation merits no further investigation for whatever reasons it thinks fit, but it may have regard to the criteria set out in Paragraph 4.4 above and to the following additional criteria:
- (a) The allegation is not considered sufficiently serious to warrant investigation; or
 - (b) The allegation appears to be motivated by malice or is “tit-for-tat”; or
 - (c) The allegation appears to be politically motivated
- 4.9 Where an Adjudication and Review Assessment Panel considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation. The meeting of the Panel shall adjourn and reconvene when the Investigation Report is available.
- 4.10 The Monitoring Officer will inform the person making the allegation and the Member/Co-opted Member of an Adjudication and Review Assessment Panel’s decision and if the allegation is to be investigated will provide an indication of the timescale for the investigation. The Monitoring Officer will keep the person making the allegation and the Member/Co-opted Member informed if the initial timetable changes substantially.

5. THE INVESTIGATION

- 5.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer who may be another senior officer of the Council, an officer of another Authority, or an external investigator.
- 5.2 The Monitoring Officer/Investigating Officer will decide if he/she needs to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain his/her understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 5.3 The Monitoring Officer/Investigating Officer will normally write to the Member/Co-opted Member against whom the allegation is made and provide him/her with a copy of the allegation and ask the Member to provide his/her explanation of events and to identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 5.4 Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person's name and address from the pages given to the Member/Co-opted Member. Where disclosure of details of the allegation to the Member/Co-opted Member might prejudice the investigation, the Monitoring Officer/Investigating Officer may delay notifying the Member/Co-opted Member until the investigation has progressed sufficiently.
- 5.5 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer shall produce as appropriate a draft report and may where appropriate

send copies of that draft report, in confidence, to the person making the allegation and to the Member/Co-opted Member concerned to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.

- 5.6 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or Member/Co-opted member have made on the draft report, the Investigating Officer will send his/her final report (The Investigation Report) to the Monitoring Officer. If the Monitoring Officer is not satisfied that the investigation has been conducted properly he/she may ask the Investigating Officer to reconsider the report or may appoint a new Investigating Officer.
- 5.7 Where the Monitoring Officer is satisfied with the Investigation Report, and where the conclusion in the Investigation Report is that there is evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member, where appropriate he/she may seek to achieve an informal resolution. The Monitoring Officer will consult the Independent Person and the person making the allegation and seek to agree what the person making the allegation considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member/Co-opted Member accepting that his/her conduct was inappropriate or otherwise unacceptable and offering an apology and/or taking other remedial action. If the Member/Co-opted Member complies with the suggested resolution, the Monitoring Officer will report the matter to an Adjudication and Review Assessment Panel which will note the outcome and formally resolve that the allegation is determined by way of informal resolution, the details of which will be published.
- 5.8 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the Member/Co-opted Member has made on the draft report and, where appropriate having sought to achieve an informal resolution pursuant to Paragraph 5.7 above, the Monitoring Officer shall produce the Investigation Report.

6. CONSIDERATION OF THE INVESTIGATION REPORT

- 6.1 When the Monitoring Officer is satisfied with the Investigation Report and an informal resolution is either inappropriate or incapable of achievement, the Monitoring Officer will refer the Investigation Report to an Adjudication and Review Assessment Panel and the Independent Person. Normally this will be within 30 clear working days of an Adjudication and Review Assessment Panel having determined that the allegation merits further investigation.
- 6.2 Where the conclusion of the Investigation Report is that there is no evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member, an Adjudication and Review Assessment Panel may:
- (a) Accept the conclusion, resolve that no further action is required and dismiss the allegation; or
 - (b) Remit the report to the Monitoring Officer for further consideration; or
 - (c) Remit the allegation to an Adjudication and Review Hearing Panel to conduct a Hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.
- 6.3 Prior to making a determination under Paragraph 6.2(a) above an Adjudication and Review Assessment panel shall seek and take into account the views of the Independent Person.
- 6.4 Where the conclusion of the Investigation Report is that there is evidence of failure to comply with the Members' Code of Conduct by the Member/Co-opted Member and where an informal resolution pursuant to Paragraph 5.7 above is either inappropriate or incapable of achievement, an Adjudication and Review Assessment Panel may:
- (a) Remit the report to the Monitoring Officer for further consideration; or
 - (b) Remit the allegation to an Adjudication and Review Hearing Panel to conduct a Hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.

6.5 Where the Adjudication and Review Assessment Panel remits the Investigation Report to the Monitoring Officer for further consideration under Paragraph 6.2(b) or 6.4(a) the meeting of the Panel shall adjourn and reconvene when the Monitoring Officer has reconsidered.

7. THE PRE-HEARING PROCESS

7.1 the Monitoring Officer (and/or his/her nominees) shall:

- (a) Agree a date for the hearing with all relevant parties
- (b) Provide a timetable for the person making the allegation, the Member/Co-opted Member (hereinafter called 'the parties') to provide details about whether they wish to give evidence (and whether orally or in writing) at the Hearing and any witnesses they intend to call and additional papers they may wish to provide in time for inclusion in the Committee papers;
- (c) Establish whether the parties will be represented or accompanied at the Hearing;
- (d) Establish whether the parties wish any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private and the reasons for this.
- (e) Provide information about the procedure to be used at the Hearing.
- (f) Establish whether the parties disagree with any of the findings of fact in the Investigation Report.
- (g) Establish whether the Investigating Officer intends to call any witnesses.

7.2 Normally Hearings conducted by an Adjudication and Review Hearing Panel shall take place within 20 clear working days of the referral by the Adjudication and Review Assessment Committee to the Adjudication and Review Hearing Panel.

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8. THE HEARING

- 8.1 A hearing of the Adjudication and Review Hearing Panel shall take place in public unless a resolution is passed to exclude the public and the press due to exempt material which may be disclosed in the course of the proceedings.
- 8.2 Where a resolution to exclude the public and the press has been passed, the following persons only may remain in attendance:
- (a) Members of the Panel
 - (b) Officers supporting/advising the Panel
 - (c) The Independent Person
 - (d) The Monitoring Officer and/or The Investigating Officer
 - (e) The Member/Co-opted Member against whom the allegation is made together with a single representative, if any
 - (f) The person making the allegation together with a single representative, if any.
 - (g) Witnesses to be called by any party
 - (h) Members of the Council who are not Members of the Panel
- 8.3 When the Panel reaches the point of deliberation upon the allegation or the sanction/penalty, the following persons only may remain in attendance:
- (a) Members of the Panel
 - (b) Officers supporting/advising the Panel
 - (c) The Independent Person
 - (d) The Monitoring Officer but only where the Monitoring Officer is present to support/advise the Panel and not where the Monitoring Officer has presented the Investigation Report.

The Chairman shall invite all other persons present to withdraw to enable the Panel to deliberate upon the allegation, and any such persons shall withdraw.

- 8.4 Normally an Adjudication and Review Hearing Panel will conduct the Hearing in an inquisitorial manner.
- 8.5 The Monitoring Officer/Investigating Officer will make an opening statement with reference to the Investigation Report. The parties will then make opening statements in relation to the allegation and to the Investigation Report. Each party may have a single representative who may participate on behalf of the relevant party. Participation may be by the party or the party's representative but not by both.
- 8.6 Following the opening statements, the Adjudication and Review Hearing Panel may ask questions of the Monitoring Officer/Investigating Officer and/or the parties by way of inquiry into the matters the subject of the allegation and/or the Investigation Report.
- 8.7 The Monitoring Officer/Investigating Officer and the parties will be afforded the opportunity to make closing statements.
- 8.8 If the Member/Co-opted Member fails to attend the Hearing, an Adjudication and Review Hearing Panel may decide to proceed in the Member's/Co-opted Member's absence and make a determination, or to adjourn the Hearing to a later date.
- 8.9 Full details of the process to be undertaken at the Hearing are contained in the Hearings Procedure note comprising Appendix A to these arrangements.
- 8.10 An Adjudication and Review Hearings Panel having sought and taken into account the views of the Independent Person may conclude:
- (a) That the Member/Co-opted Member did not fail to comply with the Members' Code of Conduct and dismiss the allegation; or
 - (b) That the Member/Co-opted Member did fail to comply with the Members' Code of Conduct.
- 8.11 In the event of a finding under Paragraph 8.7(b) above, the Chairman will inform the Member/Co-opted Member of this finding and an Adjudication and

Review Hearing Panel will then consider what action, if any, it should take as a result of the Member's/Co-opted Member's failure to comply with the Members' Code of Conduct.

8.12 An Adjudication and Review Hearing Panel will give the Member/Co-opted Member an opportunity to make representations to the Panel as to whether any action should be taken and what form any action should take.

8.13 An Adjudication and Review Hearing Panel will seek and take into account the views of the Independent Person, following which it will decide what action, if any, to take in respect of the matter.

9. ACTION WHICH MAY BE TAKEN WHEN A MEMBER/CO-OPTED MEMBER HAS FAILED TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT

9.1 Having determined that the Member/Co-opted Member has failed to comply with the Members Code of Conduct, an Adjudication and Review Hearing Panel may:

- (a) Publish its findings in respect of the Member's/Co-opted Member's conduct.
- (b) Reports its findings to Council for information;
- (c) Issue the Member/Co-opted Member with a formal censure or reprimand, a report of which may be submitted to Council.
- (d) Recommend to the Member's Group Leader (or in the case of ungrouped Members/Co-opted Members recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-committees of the Council;
- (e) Recommend to the Council that the Member/Co-opted Member be replaced as Chairman or Vice-Chairman of any Committee.

- (f) Recommend to the Leader of the Council that the Member be removed from the Cabinet or removed from particular portfolio responsibilities;
 - (g) Instruct the Monitoring Officer to arrange training for the Member/Co-opted Member.
 - (h) Recommend the Council or Cabinet, as appropriate, that the Member be removed from outside appointments to which he/she has been appointed or nominated by the Council/Cabinet.
 - (i) Withdraw facilities provided to the Member/Co-opted Member by the Council such as a computer, website and/or email and internet access;
 - (j) Exclude the Member/Co-opted Member from Council offices or other premises with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-committee meetings;
 - (k) Take no further action;
 - (l) Any other appropriate sanction which may be available to an Adjudication and Review Hearing Panel;
- 9.2 An Adjudication and Review Hearing Panel has no power to suspend or disqualify a Member or to withdraw Members' or special responsibility allowances;
- 9.3 At the end of the Hearing the Chairman shall state the decision of the Adjudication and Review Hearing Panel as to whether the Member/Co-opted Member failed to comply with the Members' Code of Conduct and as to any action which the Panel has resolved to take.
- 9.4 Within 10 working days following the Hearing, the Monitoring Officer shall prepare a formal decision notice, after consultation with the Chairman of the Adjudication and Review Hearing Panel and send a copy to the person making the allegation and to the Member/Co-opted Member concerned. The Monitoring Officer shall make that decision notice available for public

inspection and report the decision to the next convenient meeting of the Council.

10. APPEALS

- 10.1 There is no right of appeal for either the person making the allegation or for the Member/Co-opted Member against whom the allegation is made against a decision of the Monitoring Officer, an Adjudication and Review Assessment Panel or an Adjudication and Review Hearing Panel.

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HEARING PROCEDURE

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be effected at the discretion of the Adjudication and Review Hearing Panel and advised to the Parties.

1. The Chairman shall facilitate introductions and explain the procedure for the Hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to make an opening statement with reference to the Investigation Report.
3. The person making the allegation and the Member/Co-opted Member or their representatives (hereinafter called 'the Parties') shall be invited to make opening statements with reference to the allegation and/or the Investigation Report.
4. Members of the Adjudication and Review Hearing Panel may question the Monitoring Officer/Investigation Officer upon the content of the Investigation Report.
5. Members of the Adjudication and Review Hearing Panel may question the Parties upon the allegation and/or with reference to the Investigation Report.
6. The Monitoring Officer/Investigating Officer may make a closing statement.
7. The Parties or their representatives may make closing statement.
8. The Chairman shall invite the persons who may not be present during the Panel's deliberation upon the allegation to withdraw to enable the Panel to deliberate upon the allegation. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.

9. The Monitoring Officer/Investigating Officer and the Parties shall be invited to return and the Chairman shall announce the Panel's decision in the following terms:

- (a) The Panel has determined that the Member/Co-opted member has failed to comply with the Members' Code of Conduct; or
- (b) The Panel has determined that the Member/Co-opted Member has not failed to comply with the Members' Code of Conduct and the allegation is dismissed.

The Panel will give reasons for its decision.

10. If the Panel has determined that the Member/Co-opted Member has failed to comply with the Members' Code of Conduct it shall consider any representations from the Member/Co-opted Member or his/her representative as to whether any action should be taken and what form any action should take.

11. The Chairman shall invite the persons who may not be present during the Panel's deliberation upon the allegation to withdraw to enable the Panel to deliberate upon what action, if any, should be taken. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.

12. In addition to any action upon the current matter, the Panel shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members/Co-opted Members.

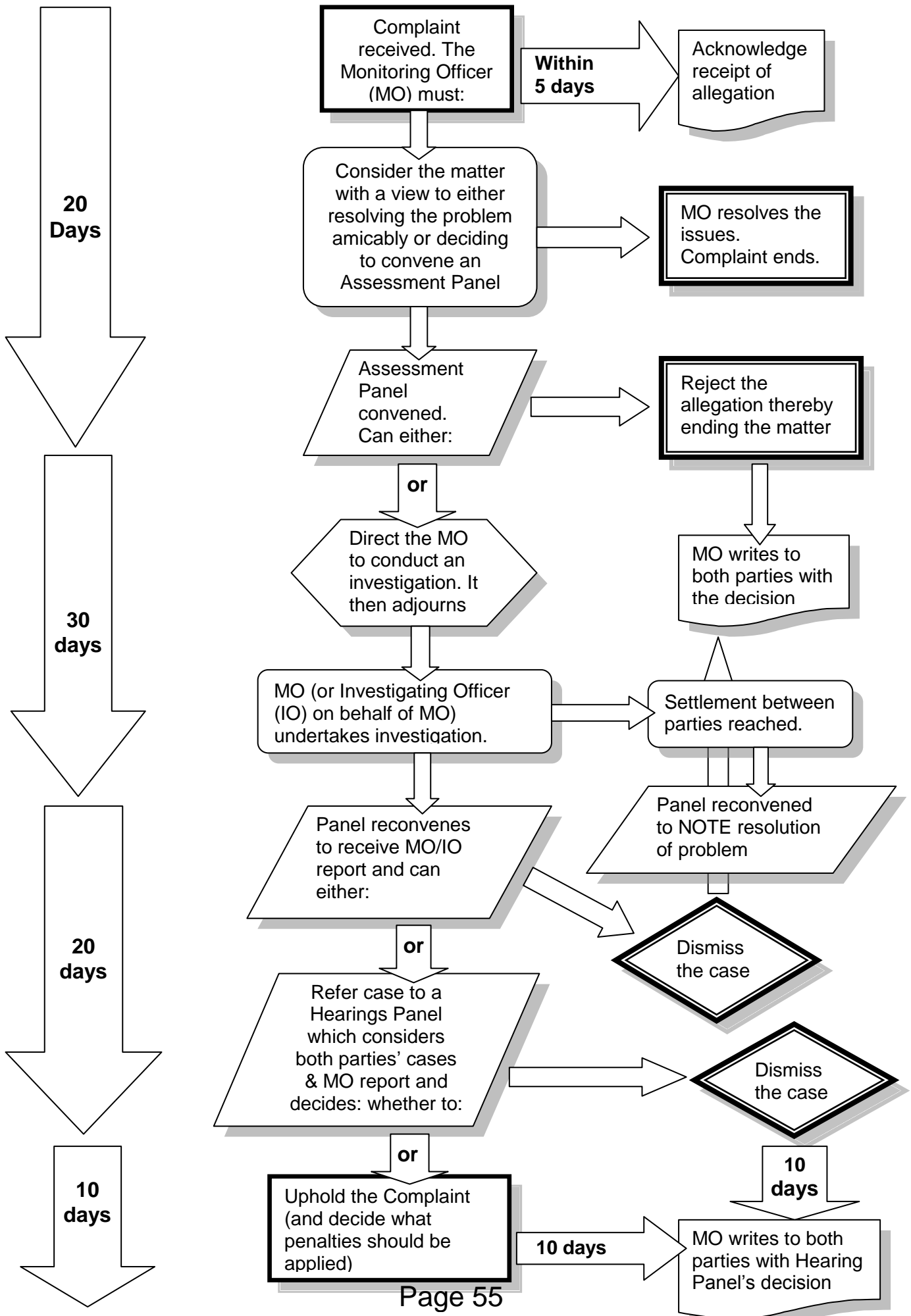
13. The Monitoring Officer/Investigating Officer and the Parties shall be invited to return and the Chairman shall announce the Panel's decision.

14. A full written decision shall be issued to the person making the allegation and the Member/Co-opted Member within 10 clear working days following the Hearing and shall be published.

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Flow chart showing the process for dealing with allegations against Members

NB: Days are "working days" therefore exclude weekends and Bank Holidays



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COMPLAINT FORM: CODE OF CONDUCT FOR MEMBERS

(Please read the 'INFORMATION FOR POTENTIAL COMPLAINANTS' before completing this Form).

To The Monitoring Officer

A. Your details

1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint and a clear public interest in investigating.

Title:	
First name:	
Last name:	
Address:	
Contact telephone:	
Email address:	
Signature:	
Date of complaint:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this form:

- The Member(s) you are complaining about
- The Monitoring Officer of the Authority
- Members of the Assessment Panel of the Council's Adjudication and Review Committee

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released please complete Section C of this form.

2. Please tell us which complainant type best describes you:

- A member of the public
- An elected or co-opted Member of the Council
- A Member of Parliament
- A Monitoring Officer
- Other council employee, contractor or agent of the Council
- Other ()

3. Equality Monitoring Form - please fill in the attached form. This is for statistical purposes only and will not be seen by Councillors.

B. Making your complaint

The sanctions available in respect of a breach of the Code of Conduct are governed by law

Please provide us with the name of the member(s) you believe have breached the Council's Code of Conduct:

Title	First name	Last name

4. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

It is also important that you provide all the evidence you wish to have taken into account by the Monitoring Officer when it decides whether to take any action on your complaint or not. For example:

- You should be specific, wherever possible about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.

- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).

Please provide us with the details of your complaint

(Continue on separate sheet(s), as necessary)

C. Confidentiality of complainant and the complaint details

Only complete this next section if you are requesting that your identity is kept confidential

5. In the interests of fairness and in compliance with the rules of natural justice, we believe members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him/ her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that:
- You may be at risk of physical harm should your identity be disclosed
 - You work closely with the Member and are concerned about the consequences to your employment
 - You have a serious health condition and there are medical risks associated with your identity being disclosed.

Evidence may be required in respect of the above and consideration will need to be given by the Monitoring Officer as to whether it is possible to investigate the

complaint without making your identity known. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

(Continue on separate sheet(s), as necessary)

D. Remedy sought

7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

(Continue on separate sheet(s), as necessary)

E. Additional information

8. Complaints must be submitted in writing. This includes fax and electronic submissions.

In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

F. Process from here

9. Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer. If the Monitoring considers an investigation to be appropriate it will be presented to a meeting of the Adjudication and Review Assessment Panel for consideration/determination. This meeting will be private and you and the Member complained about will not be allowed to attend. You will be notified after the meeting of the outcome and the further stages in the process.

The Sub-Committee may resolve to:

- (a) dismiss your complaint, with reasons;
- (b) ask you for additional information, with reasons;
- (c) refer your complaint to the Monitoring Officer for investigation (or other action);

10. You will be notified after the meeting and given information on any further stage(s) in the process at that time.

The Monitoring Officer can be reached in writing and his address is Town Hall, Main Road, Romford, RM1 3BD or by e-mail to grahm.white@oneSource.co.uk

Telephone No. 01708 432442

December 2014

EQUALITY MONITORING QUESTIONS

I would describe myself as: (please tick as appropriate)

White:

- British
 Irish
 Any other white background

Please specify background

Mixed:

- White and Black Caribbean
 White and Black African
 White and Asian
 Any other mixed background

Please Specify

Asian or Asian British

- Indian
 Pakistani
 Bangladeshi
 Any other Asian

Please specify

Black or Black British:

- Caribbean
 African
 Any other black background

Please specify

Chinese or other ethnic group:

- Chinese
 Any other ethnic background

Please specify

Age Group

- 16 - 20
 21 - 25
 26 - 35
 36 - 45
 46 - 55
 56 - 59
 60 and over

Disability/Special Needs:

Do you consider you have a disability? Yes No

Faith / Religion

- Sikh
 Christian
 Hindu
 Buddhist
 Muslim
 Jewish
 Any other
Please specify

Gender

Male Trans Man Female Trans Woman

Sexual orientation

- Lesbian
 Heterosexual woman
 Heterosexual man
 Bisexual
 Gay man
 Decline to answer
 Any other
Please specify

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**ADJUDICATION & REVIEW
COMMITTEE**

4 February 2015

Subject Heading:

STAGE THREE COMPLAINTS – Update

CMT Lead:

Andrew Blake-Herbert – Director of
Communities & Resources

Report Author and contact details:

Grant Soderberg, Committee Officer
01708 433091

grant.soderberg@onesource

Policy context:

The Council’s Corporate Complaints
Process.

Financial summary:

None directly associated with this report

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

In order to ensure that all members of the Committee are acquainted with activity at Stage Three of the Corporate Complaints process, this report provides a brief summary of the number of cases initiated and their outcomes, whether discontinued or reviewed and determined by a panel.

RECOMMENDATIONS

That the Committee:

1. Note the report
2. Decide whether to change the format, style or content for future reports

REPORT DETAIL

- 1 This is the first time such a report has been presented to Members and is very much an initial proposal which the Committee could, if it chose, modify.

Cases since 1 April 2014 to date:

- 2 The table in the appendix contains complaints initiated after 1 April 2014. This report will differ from future updates in that this contains historic information and future reports will only carry current and on-going material.
- 3 The Committee is invited to consider the information provided in the accompanying table and decide whether it is content with it as presented or would like to see it either presented differently or with different information.
- 4 The Committee is asked to note that a number of complaints considered at Stage Three were referred to the Council by the Local Government Ombudsman (LGO) and whilst that ought not to have had any effect other than alerting the service that the Ombudsman had been notified about the complaint, clearly the interest of a third party who was aware of the matter and could scrutinise its response would have had an influence on the response provided by the service involved.
- 5 Members will see that in the first case in the list, the LGO not only referred the matter back to the Council for it to continue through the Corporate Complaints process, but after the panel had given its decision, the complainant returned to the Ombudsman and the LGO decided to pursue the matter by way of her own investigation. This is currently on-going.
- 6 The Committee may find it interesting to see that of the 16 cases presented in the table, six were discontinued because the complainant did not respond either to the Member Review form or (at the outset) to a chase letter which offered additional time.
- 7 None of the five cases considered by Members were upheld – though in one case the Panel did consider that the process had been so badly administered that it awarded compensation to the complainant for the delay experienced.
- 8 Currently there are three cases pending a Member Review and one awaiting a response from the complainant.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no adverse implications and risks associated with these proposals as they are either procedural changes or designed to ensure greater cost-efficiencies are obtained.

Legal implications and risks: There are no direct legal implications arising from this report.

Human Resources implications and risks: There are none associated with this report.

Equalities implications and risks: There are none associated with this report

BACKGROUND PAPERS

None

Appendix

Subject of Complaint	Ward	Outcome	LGO involvement
Complainant unhappy with treatment she received by the PSL team	Romford Town	Not Upheld by IAP	Yes 14 001 209 Referred to Council @ S2 currently also an investigation after the IAP's decision
Complainant alleged that the Council had broken the law in respect of his C/Tax allowances.	Rainham & Wennington	Not Upheld by IAP	No
Complainant did not accept Head of Planning's reasons why the garage conversion did not break planning rules.	South Hornchurch	Process Discontinued - No response from Complainant	No
Complainant claimed a CCTV car was illegally parked when issuing a ticket	Pettits	Process Discontinued - No response from Complainant	No
Complainant alleged that the attitude of the Civil Enforcement Officer he received a PCN from was offensive.	Havering Park	Process Discontinued - No response from Complainant	No
Complainant claimed she had to place her dog in kennels whilst her kitchen was being repaired & had been refused the £600 she said it cost her. The work was also not completed in a reasonable time nor to a good enough standard	Cranham	Not Upheld by IAP	No
Complainant dissatisfied with responses received concerning a review of a controlled parking zone.	Romford Town	Process Discontinued - No response from Complainant	Yes: 14 009 259/PM Enquiry only
Complainant had difficulty with her neighbour concerning a dropped kerb in front of her property	Hacton	Not Upheld by IAP	No
Complainant claimed that the Council tried to evict her when it changed her lock, causing her distress and concern for her infant daughter	Gooshays	Not Upheld by IAP	Yes 13 003 945/KN Referred to Council @ S2
Complainant claimed that interference from Council staff drew attention to her car parked outside her brother's by putting a "Council Aware" sticker on it when it had not been abandoned. It was stolen shortly after.	Gooshays	Not Upheld by IAP	No
Complainant claimed that he had been excluded from the Housing Register & had only limited access due to discrimination	O/S Borough	Process Discontinued - No response from Complainant	Yes 14 008 849/LP Referred to Council @ S2
Complainant considered that the Council was being unreasonable to charge him for a disabled badge (which he used to get free) as he did not receive the higher rate assessment	O/S Borough	Process Discontinued - No response from Complainant	No
Complainant is in dispute with the Council about her property (PSL) & is claiming that the Council is acting illegally	O/S Borough	With Service	No
Complainant has a number of issues he claims Housing has not addressed - either paying him promised sums for decorating or not doing work as needed	Heaton	With Service	No

Adjudication & Review Committee, 4 February 2015

Complainant claims the Council has still not addressed aspects surrounding loss of property or asbestos issues	Gooshays	With Service	No
Complainant claims that neighbour nuisance (Council tenant) has been going on for years & the Council has done nothing effective to stop it.	Gooshays	Form Sent	Yes 14 012 117/KN Referred to Council @ S2

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Agenda Item 10
Local Government
OMBUDSMAN

17 November 2014

Councillor Joshua Chapman
Chair of Adjudication & Review
London Borough of Havering
Main Road
Romford
RM1 3BD

If telephoning please contact: Lisa Penny on 02476 820019
Email address: l.penny@lgo.org.uk

Dear Cllr Chapman,

Annual Letter July 2014

Thank you for your letter of 7 November. I have read the exchange of correspondence following the publication of the Annual Letter in July 2014 and hope that you have found the explanations helpful in understanding the changes to our practice.

Can I assure you that it is not our intention to produce information for local authorities which is difficult to use to drive up standards. Indeed, we want to do more to support effective local accountability. The publication for the first time this year of a bespoke report of local authority complaints, published at the same time as the annual letters, is one way we hope to do this.

I am sorry you were disappointed in the Annual Letter this year and will certainly take this into consideration in reviewing our future practice. I in no way want to diminish the excellent relationship built up between LGO and local councils over many years.

Thank you for taking the time to draw this to my attention. Your positive support is much appreciated.

*Yours,
Jane Martin*

Dr Jane Martin
Local Government Ombudsman
Chair of the Commission for Local Administration in England

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