



Notice of Non-key Executive Decision

Subject Heading:	Changes to the Council's Statutory Adults and Children's Social Care Complaints
Cabinet Member:	Councillor Jason Frost/Councillor Robert Benham
SLT Lead:	Barbara Nicholls/Robert South
Report Author and contact details:	Veronica Webb – Extn 3589
Policy context:	Local Government and Social Care Ombudsman decision to temporarily cease accepting new complaints following the outbreak of Covid 19 virus in the UK.
Financial summary:	
Relevant OSC:	Health & Adult Care Services/ Education, Children & Families
Is this decision exempt from being called-in?	Action is required following the taking of the decision so urgently request exemption from being called in

Non-key Executive Decision

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

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

1. It is proposed, with effect from close of business 31st March 2020, that statutory complaints for Adult Services and Children Services will be dealt with in the following way:
 - Ongoing statutory complaints will be dealt with and concluded where possible. Complainants will be advised where this is not possible, giving the reasons why.
 - New statutory complaints will be acknowledged and complainants advised where a complaint needs to be suspended giving the reasons why.
 - Agreement sought with complainants for alternative timescales to statutory timeframes for new complaints.
 - Revised timescales for completed responses will be subject to Director approval and sign off.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3, section 3.3 of the Constitution, gives the Executive Director

General powers

- (a) To take any steps necessary for proper management and administration of allocated portfolios.

Human resource powers

To exercise overall responsibility within their Group Directorate for human resource matters.

The Director of Children Services has the following additional power:

3.5.1

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Non-key Executive Decision

(b) To exercise the Council's functions regarding the procedures for dealing with complaints and representations relating to Children's Social Services.

And The Director Adult Services and Health has the following additional power:

3.6.1

... (c) To exercise the Council's functions regarding the procedures for dealing with complaints and representations relating to Adult Social Services

STATEMENT OF THE REASONS FOR THE DECISION

1. Following the outbreak of the Covid-19 virus in the UK, the need to ensure social care services are delivered and continue to be operational are paramount. Covid-19 has resulted in increased pressures on demand and capacity challenges. In light of this and the Local Government and Social Care Ombudsman (LGSCO) taking the decision to temporarily stop accepting new complaints, the Council has reviewed the statutory complaint regulations for Adults and Children's Social Care in line with advice from Legal.
2. This will be with the purpose to:
 - Ensure on-going and new statutory complaints where necessary are dealt with by a reduced workforce.
 - Potentially re-deploy complaints officers into essential service areas, where needed.
 - Maintain essential services to vulnerable residents.
3. The legislation governing statutory complaints, allows some flexibility, however there is a duty on the Council to deal expeditiously with complaints and in a timely manner. Where possible and in agreement with complainants, the view is to delay or suspend statutory timeframes in the handling of complaints during this time, while keeping these matters under regular review.

As a result, the following changes to the statutory complaints service are to be made:

3.1 Complaints web pages and online forms

3.2 The online form for statutory complaints will remain as they are linking directly to the Social Care Complaints & Information Team.

3.3 A Message regarding statutory complaints is to be added to the webpage outlining possible delays or suspensions.

Non-key Executive Decision

3.4 Email Complaints

3.5 All email complaints received directly by the services within Adults or Children's Services, should be forwarded to SCCI@havering.gov.uk

3.6 Automated acknowledgement will be amended to reflect the possible delays or suspensions to statutory complaints.

3.7 The SCCI inbox monitoring will be reviewed on a daily basis dependent on the contingencies of the service.

3.8 Social Care Complaints team

3.8.1 The Complaints team will continue to review new complaints.

The Local Government and Social Care Ombudsman has taken the decision to temporarily suspend the acceptance of new complaints.

The statutory regulations refer to the progression of complaints to the Local Government and Social Care Ombudsman should the complainants not be satisfied with the outcome of the Council's complaints process. Therefore by agreeing revised timescale it is clear that the LGSCO will be sympathetic to the proposals set out above.

Michael King, Local Government and Social Care Ombudsman, said:

"We need to do all we can to support the vital work councils and care providers are doing for the communities they serve in co-ordinating the response to the Covid-19 threat. By temporarily suspending our enquiries until government advice changes, we will allow care homes and councils the breathing space they need to deliver those frontline activities without distraction.

"Councils and care providers are far better placed than we are to respond to any local complaints, particularly those that are the most serious and high risk. We still expect local authorities and care providers to respond appropriately to any complaints they receive during this time, but we understand this may look different to their normal arrangements. We will be picking this up with them once we are told normal service can resume."

This decision has been taken as a result of the changes in government and PHE advice on social distancing and self-isolation following the outbreak of Covid-19.

Staff numbers dealing with complaints and other front line Social Care services may be reduced due to illness, self isolation and other caring responsibilities. With pressures on vital services, where workload increases substantially and the workforce reduces, it is likely to be necessary to re-deploy complaints staff into essential service areas.

The decision is temporary and will be reviewed regularly, in line with legal advice.

OTHER OPTIONS CONSIDERED AND REJECTED

Non-key Executive Decision

PRE-DECISION CONSULTATION

The Lead Member for Health & Adult Care Services and the Lead Member for Education, Children & Families have been consulted on these service changes prior to the decision.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Veronica Webb

Designation: Complaint and Information Team Manager (Adults & Children's Social Care)

Signature:



Date: 31st March 2020

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

There are two sets of Regulations covering complaints to Children's and Adult Social Care.

The Children Act 1989 Representations Procedure (England) Regulations 2006/1738 deals with Complaints and Representations concerning children's social care. These state that the Authority must deal expeditiously in the handling and consideration of representations under these Regulations

However in considering representations:

Stage 1

Whilst the Council must complete this stage as soon as possible it can agree an alternative timescale with the complainant which does give the Council some flexibility. It is to be hoped that most complainants would be agreeable to some flexibility given the current crisis.

Further, in relation to Stage 2 the Council can extend the period for compliance although it still has to complete within 65 days:

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 governs complaints and representations regarding Adults Social Care.

Even though there are some general duties to deal with complaints efficiently, expeditiously, and in a timely way the substantive regulation 13 provides that at the time it acknowledges the complaint, the responsible body must offer to discuss with the complainant, at a time to be agreed with the complainant the period ("the response period") within which—(i) the investigation of the complaint is likely to be completed; and (ii) the response required by regulation 14(2) is likely to be sent to the complainant.

The Authority must give an update if it does not complete any response within six months.

This gives much greater flexibility to manage adult social care complaints outside the normal timescales and in the current circumstances delaying these generally could be justified. The only caveat is that the Council should still acknowledge complaints and give some indication that they would not be dealt with in normal timescales due to the crisis and that the position will be reviewed on a regular basis. Communication should take place with the complainant as often as possible in the circumstances.

Neither of these two sets of Regulations have been suspended at present despite substantive adult social care duties being prospectively suspended by the Coronavirus Act 2020.

Non-key Executive Decision

In terms of Children Act complaints there is less flexibility. If the Council cannot agree alternative timescales with the complainant then if it simply could not progress the matter within the statutory timescales because it had to divert staff to urgent frontline services due to the pandemic crisis, whilst there would be a risk of further action it is anticipated that the Council will have the sympathy of the Court and the LGO. However, the proposals appear to comply with the statutory duties mentioned above.

FINANCIAL IMPLICATIONS AND RISKS

There are no direct financial implications arising from this decision. However, complaints that arise from a serious health and safety or safeguarding issue may incur financial costs.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The proposals contained in this report will directly impact on all staff that work in the Social Care Complaints Team who will be managed in accordance with the Council's published COVID-19 Managers Guidance

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An EqHIA (Equality and Health Impact Assessment) is usually carried out when a current or planned service/policy/activity is likely to affect staff, service users, or other residents. It is acknowledged that in emergency or urgent situations it will not always be possible to carry out an EqHIA in advance of a relevant activity, however, managers will undertake the required EqHIAs at the earliest opportunity. Where

Non-key Executive Decision

managers are already clear that protected groups/users will be impacted negatively by the intended activity, then this will be noted in the next paragraph and/or put into EqHIAs. Where the negative impact of the intended activity can be mitigated, this too should be set out in this report and/or the EqHIA.

In all situations, urgent or not, the Council will seek to ensure equality, inclusion, and dignity for all.

BACKGROUND PAPERS

Copy of Local Government and Social Care Ombudsman briefing relating to the suspension of LGSCO complaint service

Non-key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed



Name: Barbara Nicholls

Title: Director of Adult Social Care and Health

Date: 3rd April 2020

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____