



ADJUDICATION & REVIEW COMMITTEE 17 OCTOBER 2013

Subject Heading:

**STAGE THREE ACTIVITY – 1 April – 30
September 2013**

CMT Lead:

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Executive

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Policy context:

Summary of complaints escalated to
Stage Three of the Council's complaints
procedure for Member review to assist
the Council ensure good practice is
maintained

Financial summary:

None directly associated with this report

**Has an Equality Impact Assessment
(EIA) been carried out?**

Not required.

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

The summary of Stage Three complaints considered by Members since 1 April 2013 is provided in order that the Committee as a whole has an appreciation of the subject matter and the decisions made.

RECOMMENDATIONS

That:

1. The Committee note the Report.
2. The Committee decide whether it wishes to receive this sort of report in future and whether it is content with the current format or would prefer information to be presented differently..

REPORT DETAIL

Background:

1. The Adjudication and Review Committee has oversight of the Council's Corporate Complaints process and Members of the Council have, historically, maintained their right to be included in the complaints process as a final review of issues which officers have not been able to resolve.
2. Since 2010 the complaints process itself has evolved considerably. At first, the change was from an adversarial hearing to an inquisitorial style which allowed Members to engage directly with the parties and drive the process through their own enquiries. This had a twofold effect: it speeded up the process and allowed members to use their own skills and knowledge to ask pertinent questions and so arrive at better quality decisions.
3. It was still a cumbersome process however as any complainant could request a Stage Three hearing and there was nothing to filter those complaints which were of a vexatious nature or simply an expression of the complainant's frustration. In addition, the Local Government Ombudsman put in place his "Council First" initiative which meant that more complainants were directed back to their home council's complaints process before the LGO would look at the matter.
4. At that time, the only checks on the wholesale escalation of complaints to formal hearings were being made by staff in Democratic Services - which was neither sanctioned by the complaints procedure nor was it constitutional. During 2012 the Committee agreed to some further refinement of the process when it agreed to the introduction of Initial Assessment Panels (IAPs) initially with two Members, but now with three, which would sit and determine whether a hearing request should be allowed or whether it had sufficient information to determine the matter. The precedence for these panels was the Standards Committee procedure.

The Current Position:

5. IAPs are now scheduled monthly and a resolution is achieved with most cases, thereby ensuring complainants receive a councillor review without the Council incurring the cost of a formal hearing – though where Members consider that the issues are not clear, hearings are recommended and heard before a different panel and with an Independent Person on the Panel.

Statistics - 1 April 2013 to date:

6. At 1 April, there were six open complaints waiting for members to review. At the IAP held on 25 April, four cases were considered:
7. Housing (neighbour nuisance), Culture & Leisure (Parks & Open Spaces) and StreetCare (parking issues). All were considered to have been dealt with appropriately by officers and no further recommendations were made. Hearings were refused. In a second Housing complaint (repair issues) the IAP adjourned having used its discretion to make a visit to the property and, on the outcome of that visit, made recommendations to the service for further works to be undertaken a report to be submitted to it on completion of those works.
8. The next IAP convened on 24 June and considered two cases, both concerned planning issues. One was about enforcement and Traveller issues, the second concerned a back plot development which a resident considered overlooked his property too closely. Both were refused a hearing and in both cases the Panel considered that officers had done nothing wrong.
9. On 19 July a hearing took place under the Children Act. As Members will know, they are not allowed to participate in social care hearings which are conducted by panels of Independent Persons. The complaint was complex and the outcome was that the issue was partly upheld in that whilst the principle element of the complaint was dismissed, the Panel found some fault in the way in which the service had handled the matter and directed that certain process failures be addressed.
10. On 31 July the members of the IAP which had adjourned in April reconvened to consider a final report from Housing and found that the service had fully addressed the issues raised and that it was satisfied there were no outstanding matters which necessitated a formal hearing. Concerns were expressed, however, about the large amount (in direct and indirect costs) the resolution of the complaint had involved the Council in and the service was encouraged to make better evaluations of repair complaints – and consider other cost-effective options – earlier in the process.
11. Since 1 April, nine complainants have been sent hearing request forms. To date two have yet to be returned (one is in respect of planning issues, the other is a request for a hearing under the Children Act), one complainant has asked for his complaint concerning the condition of a local park to be “suspended”.

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12. The next IAP is scheduled for 24 October and two cases will be considered: Both involve Housing. One concerns neighbour nuisance, the other relates to an alleged failure of the allocations process.
13. In respect of the remaining cases; one – a StreetCare complaint involving street cleansing – is now scheduled for 21 November along with a “general” complaint (alleging the Council “lost” personal documentation). If either – or both – of the outstanding HR forms are returned in good time, they too could be added to the November IAP.

Incidence of Stage Three decisions being referred to the LGO:

14. There have been some complainants who, unable to obtain the result they wanted from the Complaints process (and in this I am including the social care statutory process), refer their complaint to the LGO. The view commonly held in the Council is that the Corporate Complaints process and Ombudsman investigations are completely distinct. Reality suggests that this is not strictly true. Whilst the Ombudsman allows the Council to pursue a complaint locally until the process is complete, if the complainant remains dissatisfied s/he can return to the LGO and ask for her to look at the matter. Invariably an enquiry from an LGO Investigator will include a request for copies of the complaint responses (including the Stage Three decision) and most often the LGO will tell the complainant that she will not investigate the matter further nor can she change a decision properly taken by the Council.
15. Though this suggests that the Ombudsman keeps clear of the complaints process, it does not mean that the process itself (or its application) is immune from investigation and, if the LGO considers that it has been maladministered (thereby causing a complainant injustice) a finding (and a possible financial penalty) could follow – even if the Council’s final decision was reasonable.
16. There is no “normal” pathway between the LGO and the Council’s complaints process as each case considered differs from another in some way. For example: in one case the complainant approached the Ombudsman and his case was referred back to the Council (premature) and from there it progressed to Stage Three and once the complainant had been given his decision he returned to the LGO only to be informed the matter would not be investigated.
17. In another case, a complainant took her complaint through the three stages of the Corporate Complaints process and then approached the Ombudsman and was informed the matter would not be investigated; but in another case, the complainant, having initially approached the Ombudsman and been told to pursue the matter through the complaints process, which she did, after her Stage Three decision had been given - Members finding the service had done nothing wrong in the way it had acted - she returned to the LGO who decided to initiate an investigation. This is quite unusual as, in this particular case, the Investigator not only wishes to have the whole matter presented to him, but also wants to evaluate the Council’s complaints process to see how robust it is and how it was applied in this particular case. The final decision could have interesting corporate implications for the complaints process.

Conclusion:

18. Bearing in mind the note of caution in the paragraph above, it remains true to say that since the introduction of IAPs, the Stage Three process of reviewing complaints has been far more efficient and cost effective and has resulted in considerable savings in officer and Member time as well as in the overall reduction of administrative costs whilst still giving residents access to Councillors.

IMPLICATIONS AND RISKS

Financial implications and risks:

There have been financial implications during the year 2012-13 because of Ombudsman activity. Any penalties and compensation is met from within existing budgets of the services affected.

Legal implications and risks:

There are no direct legal implications 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

Electronic records of the complaints