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21 OCTOBER 2020

COMPLAINTS MONITORING AND PROCEDURE REVIEW – 2019/2020

1. Summary

1.1 To provide Members with information on the Council's Corporate Complaints Procedure, including the number and nature of complaints received in respect of the services provided by the Council, during the period 1 April 2019 to 31 March 2020.

2. RECOMMENDATION

2.1 That the Board receives the report and comments accordingly.

3. Background and Discussion

3.1 The Council is committed through its Corporate Plan objectives, to the highest possible standards of openness, probity and accountability both as an employer and as a provider of services. In line with this commitment, the complaints system is seen as important to improve the quality and responsiveness of services and as a stimulus to system improvement. The ideal is for staff to welcome feedback and customers to feel free to complain or comment based on a clear understanding of the quality of service they should expect. Staff should feel free to apologise, resolve issues quickly at a local level, restore relationships and pass on lessons so that systems are improved.

3.2 Although the Corporate Complaints Procedure Code of Practice for Staff (the CCP) is very detailed and comprehensive, Officers need only refer to specific elements of the CCP at any one time. The CCP refers to an informal resolution process which is intended to encourage communication between the parties involved, either directly or through an intermediary, in order to facilitate a mutual understanding of what may be different perspectives regarding the complaint. The CCP reminds staff that informal resolution and apology should be immediate where possible and that customers most often want an explanation, an apology and reassurance that the same thing will not happen to others.

3.3 This annual report provides a mechanism by which the Council can be kept informed about the operation of the CCP and provides information about the level of activity and an assessment of how well the Council is doing in relation to the standard which it expects to achieve, including the meeting of timescales.

3.4 The principal aims of the CCP are as follows:

- (a) to ensure that customers receive social justice regardless of age, sexual orientation, religion or belief, gender reassignment and pregnancy and maternity, as well as on grounds of race, sex and disability;
- (b) to raise the standards of complaints' management across the Council;
- (c) to ensure the quality of complaints' investigations are consistently high;
- (d) to encourage and support satisfactory resolution to customer complaints;

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- (e) to learn from complaints and use the information to improve service provision;
 - (f) to place a positive focus on complaints' management.
- 3.5 The Head of Legal Services is the Council's Corporate Complaints Officer. She remains independent of any decisions, but may give guidance and advice on procedure. She also acts as the Council's link to respectively, the Local Government and Social Care Ombudsman and Housing Ombudsman.
- 3.6 The CCP is managed by the Corporate Complaints Officer. Management Team have overall responsibility for the CCP.
- 3.7 Complaints about the Council can be broadly categorised as follows:
- (a) failure to provide a service at the level or standard expected of the Council;
 - (b) the unhelpful attitude of an employee or contractor of the Council;
 - (c) neglect or delay in answering a query or responding to a request for service;
 - (d) failure to follow the Council's agreed policies, rules or procedures;
 - (e) failure to take proper account of relevant matters in coming to a decision;
 - (f) failure to tell people of their rights;
 - (g) malice, bias or unfair discrimination.
- 3.8 The following complaints are not covered by the CCP:
- (a) requests for a service, e.g., the initial reporting of a fault;
 - (b) one - off service related complaints e.g. bins not emptied, are handled by the Contact Centre;
 - (c) complaints about court proceedings;
 - (d) complaints about personnel matters concerning employees of the Council;
 - (e) complaints about something which affects all or most of the inhabitants of the Borough, for instance the amount of Council Tax being levied;
 - (f) complaints about matters for which there is a right of appeal to a Tribunal or to a Government Minister, e.g., the refusal of planning permission;
 - (g) complaints for which there is a legal remedy, e.g., an injury claim;
 - (h) complaints already being dealt with by the Local Government and Social Care Ombudsman or Housing Ombudsman;
 - (i) complaints from employees of the Council (except as external users of services);
 - (j) matters which have arisen more than three months before the complaint is made, unless there are very special circumstances;
 - (k) matters connected with 'internal malpractice' and the employment protection for individuals disclosing certain information in relation to the workplace (refer through the Whistleblowing Policy);
 - (l) matters connected with the level of Housing Benefit/Council Tax Support awarded;
 - (m) policy issues, e.g., the allocation of resources or prioritisation of works;
 - (n) complaints, which fall to be dealt with under the Member Code of

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Conduct.

- 3.9 The Regulators' Code (April 2014) requires the Council to have a clear and accessible complaints process. The Council is under a statutory duty to have regard to the Code.
- 3.10 The means for making a complaint are actively promoted and information about the complaints' process is available via various leaflets, on-line (website and intranet), the Civic Centre reception points and public outlets, such as the Museum and Library. Customer Services has direct contact with the majority of complainants and provide more detailed advice and support to service users who may require assistance in expressing their concerns or defining their complaints.
- 3.11 Complaints can be made in person, over the telephone, in writing by letter, fax or email or through the Council's website. [Relay UK](#) (previously Next Generation Text) – a national relay service, assists people with hearing and speech difficulties communicate with anyone over the phone.
- 3.12 Although the CCP has a three stage process, Officers are encouraged to resolve issues informally in the first instance.
 - 3.12.1 Informal process;
 - 3.12.2 Stage One investigation by the service manager;
 - 3.12.3 Stage Two investigation undertaken by an Officer independent of the Stage One decision or the investigation may be outsourced when a complaint is complex or contentious or when the Council's independence is likely to be questioned;
 - 3.12.4 Stage Three – referral by the complainant, to the Local Government and Social Care Ombudsman or Housing Ombudsman and if related to a data protection, freedom of information/environmental information regulations' issues, to the Information Commissioner.
- 3.13 Response times are as follows:
 - 3.13.1 Stage One - 15 working days
 - 3.13.2 Stage Two – 21 working days
- 3.14 Complaints are managed entirely through Pentana (a performance management system). The system provides for logging, tracking, monitoring and reporting on complaints. Having instant access to complaints' information enables the Corporate Complaints Officer/relevant Director to quickly identify issues of concern and pass them immediately to the relevant service area for resolution. Management Team receive quarterly updates.
- 3.15 Complaints' data is analysed and grouped by departments, stages and nature of complaints, response time and decisions. Equalities information is recorded separately.

Training and development

- 3.16 Training of new front line staff, service managers and Departmental

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Complaints Officers is designed to help staff in developing their skills in:

- 3.16.1 defining and analysing complaints;
- 3.16.2 planning investigations and making the best use of sources of information;
- 3.16.3 evaluating information and making sound decisions;
- 3.16.4 communicating those decisions effectively;
- 3.16.5 resolving and learning from complaints;
- 3.16.6 overcoming common problems.

3.17 Training for Stage Two investigators develops staff skills in:

- 3.17.1 defining and analysing complaints;
- 3.17.2 planning investigations and making the best use of sources of information;
- 3.17.3 evaluating information and making sound decisions;
- 3.17.4 communicating those decisions effectively;
- 3.17.5 resolving and learning from complaints;
- 3.17.6 overcoming common problems.

All managers will undertake the LGO's on-line training on accepting, investigating and deciding complaints. Training will be completed by no later than 31 January 2021.

3.18 Shared [front line] services with Sevenoaks District Council currently comprise Internal Audit, Revenues and Benefits (Revs & Bens) and Environmental Health. Complaints against the Dartford element of the joint service are dealt with and monitored in accordance with Dartford Council's complaints' procedure.

Complaints' analysis

3.19 Management Team receives reports on a quarterly basis. Directors discuss with their managers, patterns of complaints and possible service improvements etc. with a view to remedying any acknowledged deficiencies as quickly as possible.

3.20 The information contained within Appendix A shows those complaints that have been escalated through the various stages of the complaints process. This Appendix details:

- 3.20.1 the number of complaints received;
- 3.20.2 at which stage complaints were handled;
- 3.20.3 the date of response together with the target date (15 working days for Stage One: 21 working days for Stage Two);
- 3.20.4 nature of complaints received and the categories used for recording;
- 3.20.5 the actual outcomes (upheld, dismissed, partially upheld);
- 3.20.6 explanatory information.

The following provides an analysis of corporate and ombudsman complaints for the year 2019/20:

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(a) Response times

	2018/2019		2019/2020	
	Number investigated at this stage	Percentage completed within timescale	Number investigated at this stage	Percentage completed within timescale
Stage 1	86	90.7%	100	94.5%
Stage 2	9	66.66%	15	57%
Local Government Ombudsman	2	-	10	-
Housing Ombudsman	4	-	2	-
Information Commissioner	-	-	-	-

Across the two internal stages, there has been an increase in the number of complaints that were responded to within the specified response time. There has also been an increase in the number of complaints received in total and across Stages One and Two of the complaints process. Details of each complaint are provided in Appendix A.

(b) Outcome analysis

Outcome	2018/2019		2019/2020	
	Number	Percentage	Number	Percentage
Complaints upheld	17	17.2%	19	14.5%
Complaints partially upheld	26	26.3%	15	11.4%
Complaints dismissed	56	56.5	81	61.8%
Complaint processed but outcome not recorded	-	-	4	3%
Complaints referred to Ombudsman/ Information Commissioner	6	-	12	9.1%

With 17.2% of complaints being upheld and 26.3% being partially upheld, the indication is that the Council's customers were reasonably justified in complaining and by doing so, assisted the Council in improving its services. The percentage of complaints dismissed has increased.

(c) Trends - Breakdown by service area

Service Area	Number of complaints		Ombudsman/Information Commissioner Complaints	
	2018/2019	2019/2020	2018/2019	2019/20
Council Tax/Revenue & Benefits/Fraud	27	10	0	2
Corporate Support	0	0	0	0
Customer Services	1	0	0	0
Planning/Development Control	4	11	0	1
Environmental Health	5	4	0	2
Housing	42	70	2 to the LGO 4 to the Housing Ombudsman	5 to the LGO 2 to the Housing Ombudsman
Licensing	0	0	0	0
Waste and Recycling	7	8	0	0

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Parking and Regulatory Enforcement	9	8	0	0
Parks	1	4	0	0
Bereavement Services	0	0	0	0
Electoral Services	1	1	0	0
Legal Services	4	0	0	0
Leisure	0	0	0	0
Finance	0	0	0	0
Other	0	3	0	0

(d) Breakdown by complaint type

Type	Number of complaints	
	2018/2019	2019/2020
DBC Staff	10	28
Contractor Staff	2	9
Services provided by DBC	84	79
Services provided by Contractor	5	9

(e) Compensation

2018/2019		2019/2020	
Number of complaints where compensation was paid	Percentage of total number of complaints	Number of complaints where compensation was paid	Percentage of total number of complaints
1	0.99%	3 1 LGO 2 HO	2.36%

Directors have delegated authority to consider and agree monetary compensation in exceptional circumstances. Compensation may be appropriate where the Council has failed to perform a statutory obligation or its actions could amount to maladministration, particularly where financial loss has occurred.

Lessons learned from complaints' handling

- local front line responsibility for complaint handling is the most crucial aspect of the system;
- informal resolution and apology should be immediate where possible;
- useful to record complainants' objectives such as: explanation, apology, improvement or redress and the extent to which complainants and those complained against, are satisfied with the process;
- the definition of a complaint needs to be broad but measurable;
- understanding the seriousness of complaints is essential to the efficient management of complaints - serious complaints or clusters of common complaints can raise issues of principle that require policy review and action;
- in most cases, local resolution (informal and formal) supported by independent review processes (assessment, review, investigation, decision and report) is appropriate;
- timescales should be short but related to the complexity of the issue -

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however, an over emphasis on timescales can detract from outcomes such as satisfaction with resolution and the improvement actions taken;

- stage two investigators need skills in investigation and access to expertise about service standards to reinforce their objectivity and authority;
- customers most often want an explanation, an apology and reassurance that the same thing will not happen to others;
- monitoring should involve real examples rather than just statistics and focus on timescales, to the exclusion of other outcomes;
- encourage feedback from staff and customers to improve the complaints' process.

3.21 How the information from complaints is used to improve working practices and/or policy

The emphasis of effective complaints handling is on early and local resolution of complaints and ensuring that learning is shared and improvements acted upon as soon as possible after the issue that gave rise to the complaint. Senior management take an active interest in complaints and review the information gathered on a regular basis.

An analysis of complaints' outcomes (Appendix A) provides a detailed record of services that are not being provided to service users' satisfaction. For example, most of the complaints in Revs & Bens relate to concerns over awards of housing benefit and council tax support or delays in processing claims. As part of the ongoing review of the service to improve efficiency and customer service, every effort is being made to improve the accuracy and time taken to process claims. A team of quality checkers take a sample of claims from each assessor to check that they have been processed accurately and then additional training will be provided where it is clear that an assessor is making numerous mistakes. Risk based verification has also been introduced, which means that those low risk claims have far fewer checks undertaken on them. This helps to speed up how quickly claims are processed.

On occasion, complaints refer to a member of staff not being as helpful or polite as they should be. Where this happens, service managers will speak to the member of staff and remind them of the need for good customer service. Very occasionally, staff may be put forward for additional training in good customer care.

Satisfaction surveys

3.22 Complainants are routinely surveyed at the close of the complaint. There are no national indicators that assess the satisfaction with complaints handling.

From an analysis of responses received, it would appear that some customers view the satisfaction survey process as a further opportunity to prolong their complaint. This is unfortunate and calls into question the merits of continuing with the satisfaction surveys. Management Team considered whether it was appropriate to use a different method of surveying complaints e.g. telephone rather than written, as any attempt to continue the complaint could be closed down immediately and whether a replacement indicator

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such as the number of complaints that are escalated through the various stages of the CCP could be considered. It was agreed, that for the time being, the satisfaction surveys be continued.

Equalities and Diversity

- 3.23 Local authorities are subject to the public sector equality duty (PSED) in the Equality Act 2010. The PSED is the reformulated and broadened version of the 'due regard' duties on public authorities, which apply to discrimination on grounds of age, sexual orientation, religion or belief, gender reassignment and pregnancy and maternity, as well as on grounds of race, sex and disability.
- 3.24 The Council has explicit objectives of improving equality of access to complaints for vulnerable people, those with language barriers or speech problems etc. The complaint's form and leaflets are written in plain English. Braille, large print, audio and language line (interpretation) facilities are available on request. The Council also welcomes calls via Relay UK.
- 3.25 Customers are asked to complete equalities monitoring data when they submit a complaint form either in hard copy or online. The completion of the equalities data is discretionary and a significant number of complainants choose not to provide this information. However many people do provide this data so it is hopefully indicative of overall trends. This data is collected to ensure that the Council is treating all members of its community fairly and making its CCP accessible to all individuals. The results of equalities monitoring is set out at Appendix B to the report.

Local Government & Social Care Ombudsman

- 3.26 The Local Government & Social Care Ombudsman (LGO) is responsible for deciding whether maladministration, service failure or both have occurred in relation to the service provided. The LGO's views are final, subject only to judicial review by the courts.
- 3.27 One of the key priorities for the LGO is to continue to ensure that complaints are resolved at a local level. The LGO will only normally investigate if the local complaints' procedure has been exhausted.

On 31 July 2019, the LGO launched a new interactive map, called '[Your Council's Performance](#)'. The intention of this new tool is to place a focus on local authorities' compliance with LGO investigations.

Two complaints were submitted to the LGO who partially upheld one complaint that related to noise nuisance arising from a firework display in Central Park and resulted in recommendations in relation to the Council's processes and policy for event management. The other complaint relating to the repeated failure to collect refuse was upheld on the grounds of inconvenience caused to the complainant by fault and, in addition to supporting the Council's payment of £100 by way of compensation as part of the resolution at Stage 2, the LGO instructed the Council to issue a further apology and to monitor the collection of refuse from the complainant's property for a defined period of time.

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The LGO's Annual Review Letter 2020 was reported to Cabinet [24/09/2020:Min.No.148].

- 3.28 The LGO has issued principles for authorities to consider when setting up arrangements for third parties to deliver services on its behalf and will treat any complaint about a service provided by a third party on behalf of the Council, as being against the Council. This means that the Council maintains responsibility for third party actions, including complaint handling, no matter what the arrangements are with that party.

Where complaints involve contractors, the LGO provides contractors with the opportunity to comment as part of the investigation and decision-making process.

Information Commissioner

- 3.29 In the year 2019/2020, no complaints alleging data breaches were referred to the Information Commissioner.

Housing Ombudsman

- 3.30 All social housing (landlord related functions) complaints are dealt with by the Housing Ombudsman.

- 3.31 Under section 180 of the Localism Act 2011, local authority tenants can ask for their complaints to be considered by a 'designated person' when their landlord's internal complaints' procedure has been exhausted. The introduction of a 'designated person' is intended to involve local politicians and local people in resolving housing issues.

- 3.32 A 'designated person' has no legal authority over Council housing policies or procedures. The 'designated person' can either try to resolve the complaint themselves or they can, with the consent of the complainant, refer the complaint to the Housing Ombudsman. If the 'designated person' refuses to do either, the complainant can contact the Ombudsman directly, subject to waiting 8 weeks from the date of the Stage Two decision.

- 3.33 A 'designated person' can be any Member of Parliament, a local councillor or a designated tenant panel. MPs and local councillors (not County or Parish/Town Councillors) automatically become 'designated persons' at the commencement of and throughout their term of office.

Cabinet agreed that there would be advantages in designating a specific Member to fulfil the role, as that Member could be trained and supported by the Housing team to fully understand the operations and obligations of the Housing service, prior to dealing with any complaints. Appointing a Member specifically to this role also provides a single point of contact for consistency of approach and leaves Tenant Groups, the local MP and Housing Portfolio member free to continue in their current roles, without conflict of interest issues arising. Councillor D Hammock was appointed the 'designated person' [Cabinet 25.04.13: Min.No.185] and has received training from the Head of Legal Services and Head of Housing.

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3.34 In the year 2019/2020, two complains were referred to the 'designated person'.

3.35 In the year 2019/2020, the Housing Ombudsman dealt with ten complaints against the Council as landlord. This number is comparable to the 2018/19 data. One complaint resulted in a find of maladministration and the other as a no maladministration finding.

The Housing Ombudsman will start publishing reports in November 2020.

Conclusion

3.36 Quarterly reports to Management Team identify any apparent trends that are then taken up by the relevant Director with the service department concerned, with a view to recommending and/or agreeing on action to minimise or avoid similar complaints in future.

3.37 The Council will continue to monitor the effectiveness of its CCP including the Pentana system, to ensure consistency of data and fitness for purpose.

4. Relationship to the Corporate Plan

The Council is committed to the highest possible standards of openness, probity and accountability both as an employer and as a provider of services. In line with this commitment, the Council encourages its customers to voice their concerns (through the Corporate Complaints Procedure), as an opportunity to put things right for the customer and to improve services.

5. Financial, legal, staffing and other administrative implications and risk assessments

Financial Implications	None
Legal Implications	None
Staffing Implications	None
Administrative Implications	None
Risk Assessment	Failing to follow the Corporate Complaints Procedure could result in a maladministration decision by the Ombudsmen against the Council

6. Details of Exempt Information Category

Not applicable

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7. Appendices

Appendix A – Corporate Complaints Analysis 2019/2020

Appendix B – Equalities Analysis 2019/2020

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
		Marie Kelly-Stone (01322) 343634	Legal Services/ Strategic Directorate (Internal Services)	N/A