

## **Brighton & Hove City Council**

**For general release**

**Meeting:** Standards Committee

**Date:** 16 December 2003

**Report of:** Director of Strategy and Governance

**Subject:** Corporate Complaints Update

**Ward(s) affected:** All

### **1. Purpose of the Report**

- 1.1 The purpose of this report is to provide summarised information about member conduct for the period 1<sup>st</sup> April 2003 to 31<sup>st</sup> October 2003, and complaints about service issues for the period 1<sup>st</sup> July 2003 to 30<sup>th</sup> September 2003. Details relating to School Management issues and Adult Social Care issues are not included in the report as these service areas do not fall within the remit of the Standards and Complaints Manager.
- 1.2 Recommendations made to heads of service as a result of investigations into complaints are provided in section 3.5 and 3.7 .
- 1.3 Comparative information is provided on other local authorities in section 3.8 .
- 1.4 Information is provided about compliments received from members of the public in section 3.9 .
- 1.5 Appendix 1 provides a Glossary of Terminology used by the Local Government Ombudsman.
- 1.6 Appendix 2 provides a description of the Corporate Complaints Procedure and the Statutory Complaints Procedure in the form of a flow chart.

### **2. Recommendations**

- 2.1 The Standards Committee is asked to note the report and to comment as appropriate.

### 3. Information / Background

The information contained in this report has been divided into 9 sections.

#### 3.1 Information on Complaints about Members

As described in the 16<sup>th</sup> September 2003 report 'Reporting Complaints about Members' five headings are being used to categorise complaints about Members. For the purpose of this report these have been labelled A to E. Complaints information reported in this section relates to the period 1<sup>st</sup> April 2003 to 31<sup>st</sup> October 2003.

- 3.1.1 A. Complaints investigated under the Council's internal complaints procedure. Including non-code of conduct complaints or where the complainant does not wish to refer a complaint to the Standards Board.

Date of Incident  03.10.03  Number A1	<u>Brief Description:</u> The complainant had asked for a Councillor for help in resolving a matter regarding the condition of a pavement. The complainant was unhappy that the Councillor had not taken the matter through to its final conclusion and had suggested the complainant take the issue up with the Highways department.
	<u>Outcome:</u> The Councillor had replied to all letters sent to him by the complainant and had contacted the officer responsible. Work was carried out but the complainant felt it was not satisfactory. The Councillor suggested the complainant contact the officer directly and come back to him if the matter was not resolved. The complainant did not contact the Councillor again but made a written complaint instead. The Complaints Officer investigating the complaint considered that the Councillor had taken necessary steps to update the complainant and had taken action on his behalf. The complaint was not upheld.
	<u>Previously reported in Corporate Complaints Update to Standards Committee:</u>
	No

3.1.2 B. Cases where the Standards Board decided not to investigate, complaints referred for investigation by an ESO, and cases pending decision of the ESO.

Date of Decision	<u>Brief Description:</u> It was alleged that a member had not followed the council's own principles of good governance. Allegedly, this caused serious nuisance to a number of residents.
08.04.03	
Number B1	<u>Outcome:</u> The Standards Board for England considered the allegation and decided not to refer to an Ethical Standards Officer for investigation. The Board will be taking no further action in relation to this allegation.
	<u>Reason for the Decision:</u> The allegation did not disclose a breach of the code. There was no information to suggest personal misbehaviour on the part of the councillor. Rather, he was trying to balance the wishes and interests of different groups of constituents in regard to a hard-court area and the noise of a street party.
	<u>Previously reported to Standards Committee:</u> Yes

Date of Decision	<u>Brief Description:</u> It was alleged that a member failed to respond to letters sent to him concerning parking signs.
04.07.03	
Number B2	<u>Outcome:</u> The Standards Board for England considered the allegation and decided not to refer to an Ethical Standards Officer for investigation.
	<u>Reason for the Decision:</u> The allegation did not disclose a breach of the code. The Code of Conduct does not oblige members to deal personally with all correspondence received
	<u>Previously reported to Standards Committee:</u> Yes

Date of Decision	<u>Brief Description:</u> It was alleged that a member had failed to assist a complainant in pursuing a complaint against the Borough in relation to his application to become an Independent Visitor.
23.07.03	
Number B3	The complainant argued that the member had a duty to undertake an investigation into the action of council officers and to report other councillors to the Board for failing to undertake such an investigation.

	<u>Outcome:</u> The Standards Board for England considered the allegation and decided not to refer to an Ethical Standards Officer for investigation. The Board will be taking no further action in relation to this allegation.
	<u>Reason for the Decision:</u> The allegation did not disclose any potential breach of the code of conduct. The Board considered that councillors are entitled to exercise judgement in term of their response to complaints. The substantive issue referred to in the allegation concerned the complainant's dealings with the authority as a whole rather than the conduct of an individual member.
	<u>Previously reported to Standards Committee:</u> Yes

Date of Decision 23.07.03  Number B4	<u>Brief Description:</u> It was alleged that a member had failed to assist a complainant in pursuing a complaint against the Borough in relation to his application to become an Independent Visitor. Additionally, it was alleged that the councillor withheld information.
	<u>Outcome:</u> The Standards Board for England considered the allegation and decided not to refer to an Ethical Standards Officer for investigation. The Board will be taking no further action in relation to this allegation.
	<u>Reason for the Decision:</u> The allegation did not disclose any potential breach of the code of conduct. The Board considered that councillors are entitled to exercise judgement in term of their response to complaints. The substantive issue referred to in the allegation concerned the complainant's dealings with the authority as a whole rather than the conduct of an individual member. The allegation of withholding information was not substantiated.
	<u>Previously reported in Corporate Complaints Update to Standards Committee:</u> Yes

Date of Decision 23.07.03	<u>Brief Description:</u> It was alleged that a former councillor had failed to assist a complainant in pursuing a complaint against the Borough in relation to his application to become an Independent Visitor.
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Number B5	<u>Outcome:</u> The Standards Board for England considered the allegation and decided not to refer to an Ethical Standards Officer for investigation. The Board will be taking no further action in relation to this allegation.
	<u>Reason for the Decision:</u> The allegation did not disclose any potential breach of the code of conduct. The Board considered that councillors are entitled to exercise judgement in term of their response to complaints. The substantive issue referred to in the allegation concerned the complainant's dealings with the authority as a whole rather than the conduct of an individual member.
	<u>Previously reported in Corporate Complaints Update to Standards Committee:</u> Yes

Date of Decision 05.08.03	<u>Brief Description:</u> It was alleged that a member had failed to assist a complainant in pursuing a complaint against the Borough in relation to his application to become an Independent Visitor.
Number B6	<u>Outcome:</u> The Standards Board for England considered the allegation and decided not to refer to an Ethical Standards Officer for investigation. The Board will be taking no further action in relation to this allegation.
	<u>Reason for the Decision:</u> The allegation did not disclose any potential breach of the code of conduct. The Board considered that councillors are entitled to exercise judgement in term of their response to complaints. The substantive issue referred to in the allegation concerned the complainant's dealings with the authority as a whole rather than the conduct of an individual member.
	<u>Previously reported in Corporate Complaints Update to Standards Committee:</u> Yes

A case has been lodged with the Standards Board in connection with an alleged failure to declare an interest. There have been no further developments in relation to this case since the September complaints update report.

### 3.1.3 C. Cases referred to the Monitoring Officer under Local Determination Regulations.

There have been no cases within this category.

3.1.4 D. Cases referred to the Monitoring Officer for local investigation.

There have been no cases within this category.

3.1.5 E. Cases referred to the Adjudication Panel following investigation by the ESO.

There have been no cases within this category.

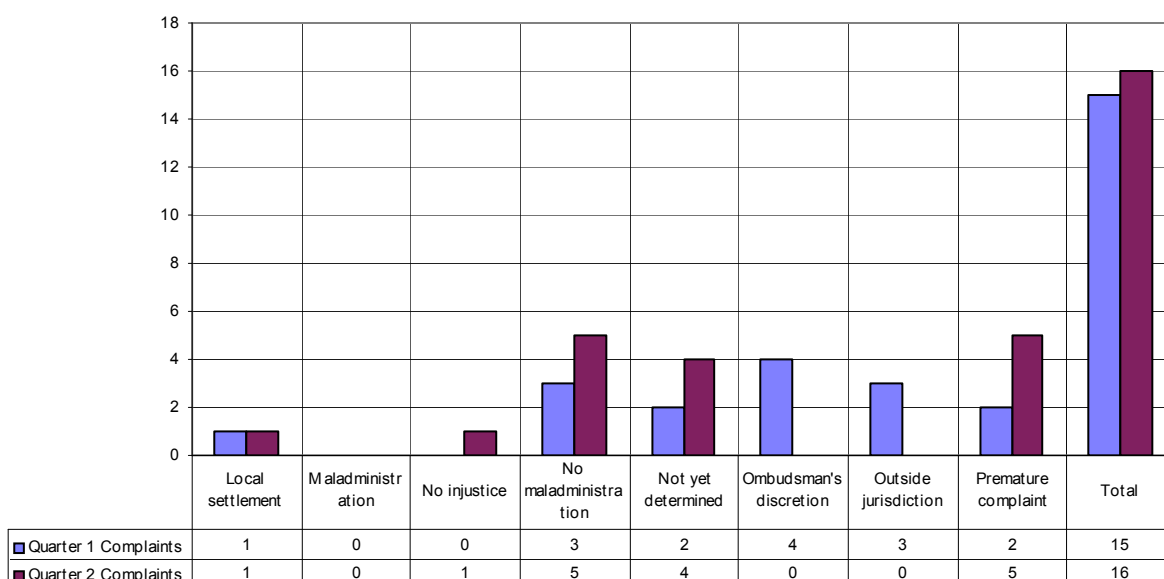
- 3.1.6 Details of how to make a complaint about Council services can be found in the Standards and Complaints Leaflet available at all Council Service access points. The Council's website provides further information on how to make a complaint. Each of the newly produced City Direct Leaflets provides basic information on how to access the Standards and Complaints Service. A new City Direct Leaflet 'Comments, Compliments, Complaints – How are we Doing?' provides information to the public on how to make a complaint about elected members if it is believed the member is acting unethically.

## **3.2 Information on Complaints received from the Local Government Ombudsman**

- 3.2.1 During the period 1<sup>st</sup> July 2003 to 30<sup>th</sup> September 2003 the Local Government Ombudsman received 16 complaints about the Council in comparison to 15 in the preceding quarter. Chart 2 shows the number of LGO complaints received by each department.
- 3.2.2 Chart 1 illustrates the categories of the complaints received by the Local Government Ombudsman. Appendix 1 provides a Glossary of terms used by the Ombudsman.
- 3.2.3 The Local Government Ombudsman requires an initial response to his enquiries within 15 working days. Correspondence performance for the second quarter of 2003/04 for cases investigated by the Local Government Ombudsman was 21.4 working days in comparison to 23 working days for the first quarter.
- 3.2.4 Staff in the Standards and Complaints Team have frequent contact with the Local Government Ombudsman's Investigators. Relationships continue to be very good.

**Chart One**

**Local Government Ombudsman Complaints 2003 - 2004**



### **3.3 Information on numbers of complaints under Stages 1 and 2 of the Council's Corporate Complaints Procedure.**

3.3.1 During quarter 2, 24 stage 2 cases have been investigated in comparison to 21 for the first quarter of 2003-2004.

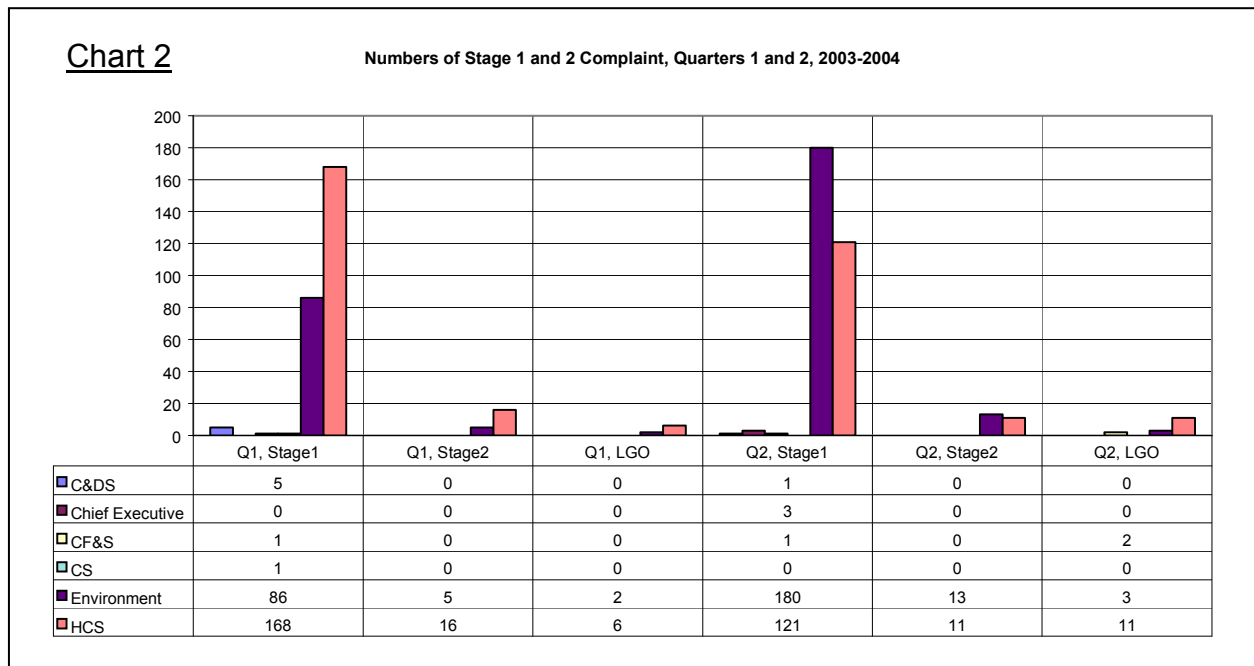
3.3.2 Average response times for stage 2 complaints were 22.6 days in comparison to 21.5 days for quarter 1.

3.3.3 Chart 2 below shows the numbers of stage 2 complaints received by each department.

3.3.4 During quarter 2, 308 Stage 1 complaints were received in comparison to 261 for the first quarter of 2003-2004. The main contribution to the overall rise was the increase in complaints about refuse collection from 41 in quarter 1 to 95 in quarter 2 and matters relating to car parking and highways which increased from 25 to 44. Complaints about Housing Benefits reduced from 32 to 11 in quarter 2.

3.3.5 The average response time for stage 1 complaints was 9.7 days in comparison to 9.8 days for quarter 1. Response times have reduced significantly from 18.7 days for the whole of 2002/03. Standards and Complaints Assistants have been closely tracking and chasing overdue complaints.

3.3.6 Chart 2 below shows the numbers of stage 1 complaints received by each department.



#### 3.4 Information on complaints issues received under Stages 1 and 2 of the Council's Corporate Complaints Procedure.

3.4.1 Charts 3 and 4 below show the proportion of issues that members of the public have complained about at stages 1 and 2 respectively.

3.4.2 Quality of Service issues account for approximately 70% of complaints at stage 1. At stage 2 there have been an increasing proportion of complaints about service issues over the last three quarters.

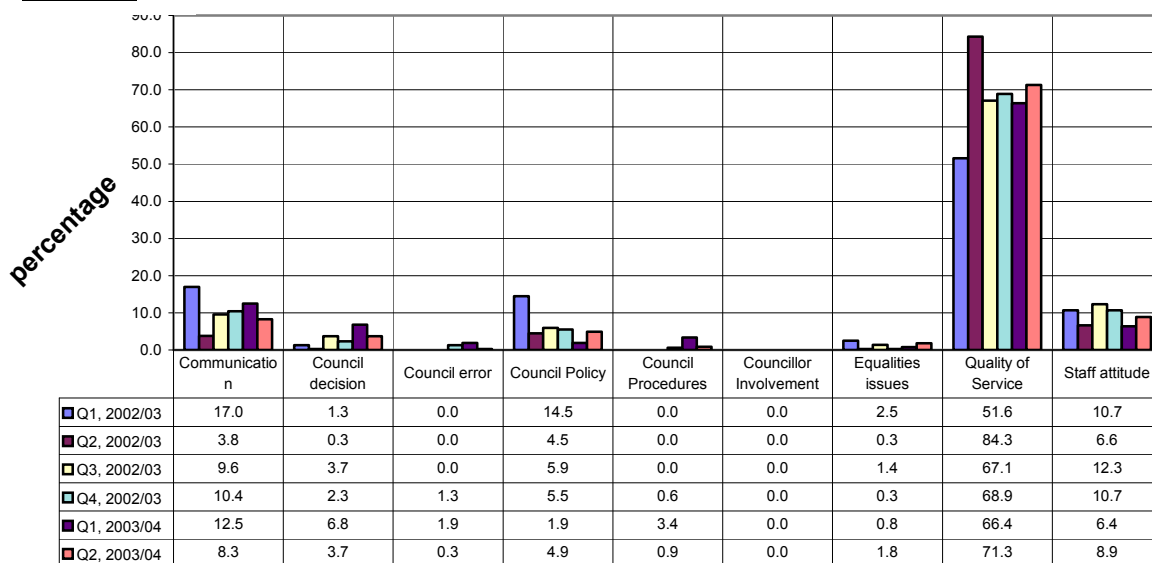
3.4.3 Communication issues accounted for a 27.5% of stage 2 complaints having reduced from 64.7% for the same quarter in 2002/03.

3.4.4 Staff Attitude issues regularly account for between 6 and 12% of complaints at stage 1. At stage 2 the proportion has fallen consistently.



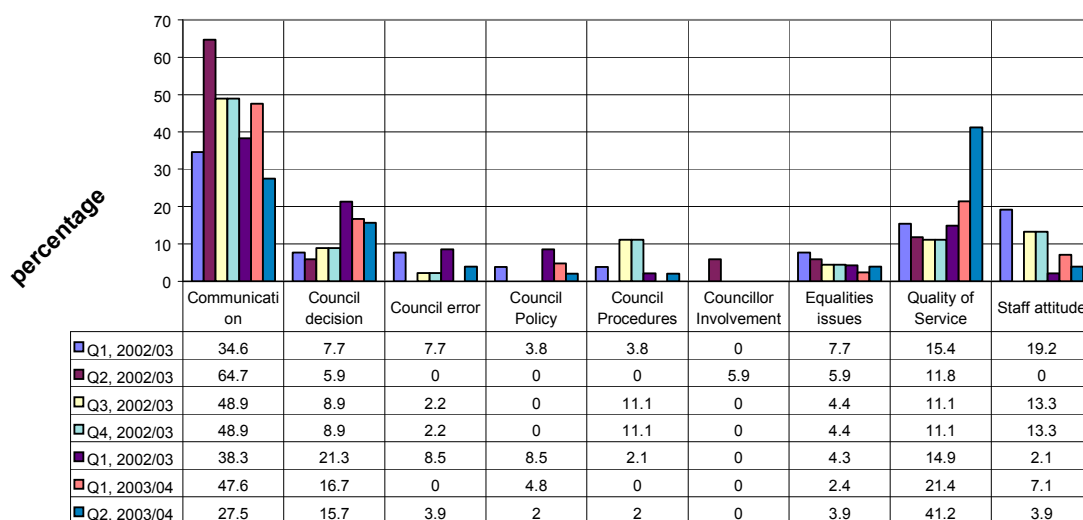
**Stage 1 Complaints by Issue**

**Chart 3**



**Stage 2 Complaints by issue**

**Chart 4**



### 3.5 Recommendations made as a result of investigations

3.5.1 Information about complaints and compliments is regularly reported to senior management teams. Recommendations from individual complaints are reported to heads of service as they occur. The following is a summary of recommendations made as a result of complaints received in the period of the second quarter of 2003/04.

- The wording in the Mutual Exchange Scheme Leaflet should be changed to reflect Brighton & Hove City Council's policy on eligibility for sheltered housing.
- Members of the public should be advised promptly if a scheduled meeting is to be cancelled giving reasons for this.
- More detailed records should be kept of action taken on missed bins.
- When it is known that there is a solicitor on record, they should be shown to be the main contact and all communication should go via them. If a solicitor is brought in in the middle of a case, then the records should be amended to show that they are the main contact and all parties notified accordingly.

### **3.6 Cases where equalities issues have been raised as an issue**

<b>Complaint</b>	<b>Outcome</b>
The person making the complaint did not think that the profile of staff working for B&HCC represented the demographic profile of people living in the city. In addition the complainant wanted to know why there was a question about sexuality on the recruitment monitoring form.	The person was informed that the council is keen to achieve a diverse workforce that reflects the make up of the community it serves. The Council wants to ensure equality for all, and this applies to recruitment. The Council's recruitment monitoring form asks an optional question about sexuality. This is to avoid any discrimination in employment practices and to aim for create a workforce that is representative of the local community.
The person making the complaint believes his family have been racially discriminated against and that there is institutionalised racial discrimination throughout the Council.	This issue had previously been referred to the Local Government Ombudsman who had recommended that the complainant seek advice from the Commission for Racial Equality. A meeting was held with the complainant. It was re-affirmed that this would be the most likely means by which he could achieve an absolutely objective investigation into his allegation.

	The CRE have made no subsequent contact with the Council.
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### 3.7 Information on complaints made about Children's Social Care received under the Statutory Complaints Procedure.

3.7.1 During quarter 2 there were 20 stage 1 complaints about Children's Social Care in comparison to 17 for quarter 1.

3.7.2 The average response time for stage 1 complaints was 12.7 days in comparison to 17.3 days for quarter 1. The statutory procedures recommend that a reply should be provided within 20 working days.

3.7.3 During quarter 2 there was 1 request for Stage 2 Investigation in comparison to 2 for the previous quarter. The complainant withdrew the request following personnel changes.

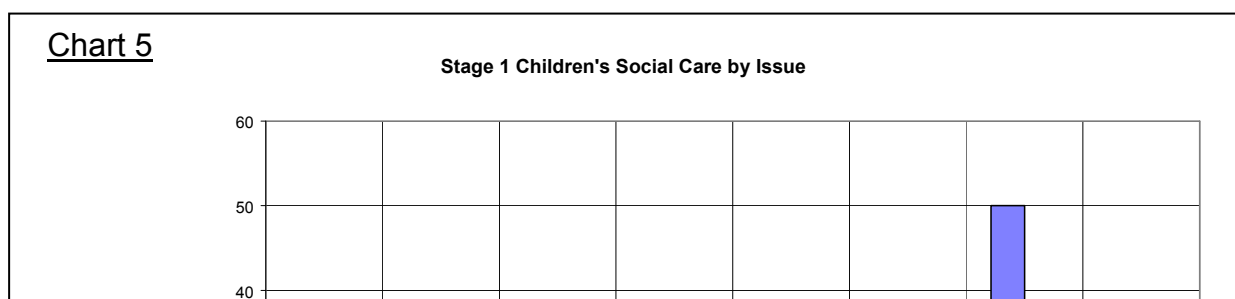
3.7.4 During quarter 2 one stage 3 Review Panel was held.

3.7.5 The stage 3 Review Panel provided the following recommendations:

- All social work staff should attend the department's vigorous and thorough induction programme and should be asked to pay particular attention to the requirements of the 'sick absence' procedure.
- Administration teams should be reminded of the need to pass information on and to make certain that the intended recipient has received that message.
- There should be more clearly defined liaison and understanding between schools and social care staff.
- Information should be provided to parents when their child is placed on the at risk register informing them of the rights they have, and the rights and responsibilities of the staff working within the Children, Families & Schools.
- Information should be provided to the parent or guardian about any support networks available to parents whose children have been placed on the Child at Risk Register, Child Protection or who are subject to Children in Care Proceedings.

3.7.6 There were no referrals to the Local Government Ombudsman in relation to complaints made about Children's Social Care.

3.7.7 Chart 5 below compares the issues members of the public complained about in respect of Children's Social Care during quarters 1 and 2.



### **3.8 Comparative data with other local authorities**

- 3.8.1 Brighton and Hove Council's Standards and Complaints Manager attends a national complaints network. Work has begun on producing regular and timely benchmark information in relation to complaints performance.

### **3.9 Compliments**

- 3.9.1 To achieve a balanced picture of how we are doing as a Local Authority it is helpful to record positive feedback from members of the public
- 3.9.2 During Quarter 2, 23 compliments have been recorded in comparison to 7 in Quarter 1. Standards and Complaints have been actively encouraging managers to notify the team of compliments that they and their staff receive.

<b>Meeting/Date</b>	Standards Committee, 16 December 2003
<b>Report of</b>	Director of Strategy and Governance
<b>Subject</b>	Corporate Complaints Update
<b>Wards affected</b>	All

<b>Financial implications</b> None
<b>Legal implications</b> None

<b>Corporate/Citywide implications</b> Recommendations contained within the text of the report identify areas for improvement in service delivery.	<b>Risk assessment</b> Failure to identify complaints issues where there are recurring themes and emerging trends are likely to result in unnecessarily high levels of dissatisfaction with council services among the public
<b>Sustainability implications</b> None	<b>Equalities implications</b> Equalities elements of complaints made to the Council to continue to be monitored and acted upon as issues arise.

<b>Implications for the prevention of crime and disorder</b>
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None
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<b>Background papers</b> None
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<b>Contact Officer</b>
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Brian Foley, Standards and Complaints Manager, 293109
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## APPENDIX 1

### Glossary of Terminology used by the Local Government Ombudsman

#### **Local Settlement:**

During the course of an investigation the Council takes or agrees to take some action, which the Ombudsman considers to be a satisfactory response to the complainant.

#### **Maladministration:**

Where there has been a fault in the way the Council has or has not done something.

For example:

- Took too long to do something
- Did not follow its own rules

- Broke its promise
- Did not make a decision in the correct way

### **No Injustice:**

The Ombudsman will only investigate injustice as a result of Maladministration. Injustice might occur if:

- A person did not receive a service or benefit to which they were entitled
- A financial loss was incurred
- Distress or upset was caused

### **Ombudsman's discretion:**

Cases are terminated at the Ombudsman's discretion if for example:

- The complainant wishes to withdraw the complaint
- The complainant decides to take court action
- No or insufficient injustice to justify continuing the investigation

### **Outside Jurisdiction:**

The law does not allow the Ombudsman to investigate certain things, these can include:

- Personnel matters
- Internal management of schools
- Matters which affect all or most of the people living in a Council's area

### **Premature Complaints:**

Complaints not accepted because the Council have not had a reasonable opportunity to deal with them first

## **APPENDIX 2**

### **Corporate Complaints Procedure**

#### **Stage 1 - Problem Solving**

Acknowledged within two working days, stating the name of the person/section dealing with the complaint and when the complainant can expect to receive a reply.

The Lead Officer should respond to complaints within ten working days. If it is not possible to send a full reply within ten working days a holding reply should be sent, telling the complainant who is dealing with the complaint and what action is being taken.

#### **Stage 2 - Formal Investigation**

If a complainant is still unhappy after the complaint has been dealt with at stage 1 they can ask for a further investigation to be carried out at stage 2 of the procedure by the Standards & Complaints team.

The Standards and Complaints team aim to conclude all Stage 2 investigations within 20 working days. When this is not possible, the Standards & Complaints Team will ensure the complainant is informed of progress.

#### **Local Government Ombudsman**

Any member of the public can complain to the Local Government Ombudsman at any time. A leaflet "How to complain to the Local Government Ombudsman" is available at main council reception desks or from the Standards & Complaints Team.



## **Statutory Complaints Procedure**

### Stage 1 - Problem Solving

- Local staff and /or manager seek to find a solution to the problem.
- If this is not possible the problem is referred to the Head of Service for their consideration.

### Stage 2 - Investigation

- The complainant wishes to pursue a matter that it has not been possible to resolve at the first stage. At this stage the written complaint is acknowledged and logged.
- An Independent Investigating Officer is appointed to investigate.
- The complaint is investigated within 28 days and a report sent to the complainant and interested parties.

### Stage 3 - Review Panel

- The complainant remains dissatisfied and requests a Complaints Review Panel.
- The complainant puts a case to the Panel.
- The written recommendations of the Panel are sent to the Director of Children, Families & Schools, the complainant and all interested parties.
- The Director provides a response to the complainant.
- The Director reviews the decision in light of the Complaints Review Panel's recommendations.

### Ombudsman

The complainant if still dissatisfied is advised of his option to pursue his/her complaint with the Ombudsman