

Annual Report by Corporate Customer Standards Officer 2016-17

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1: Introduction

In my role as Corporate Customer Standards Officer, I produce an annual report each year to update Corporate Governance and Audit Committee on complaints handling within the council.

Documents informing the report include the Local Government Ombudsman's Annual Report (published each July), any formal Local Government Ombudsman Case Reports received by the council in-year, and learning from individual complaints. This report also includes a summary on Whistleblowing outcomes.

I would like to take this opportunity to thank all complaints link officers throughout the services, once again, for their hard work in maintaining a good and effective complaints service on behalf of the Council in the face of continued organisational change and reduction in resources.

It is a credit to all staff involved in complaints handling and front line customer service that despite a difficult climate, we can evidence that the complaints received by Kirklees Council are robustly and reasonably considered.

Achievements 2016-17

- No Ombudsman Formal Reports published against the Council again this year
- Kirklees below average number of Ombudsman investigations received than anticipated when compared against West Yorkshire
- Static number of third stage complaint investigations and proportion of investigations where complaints were upheld
- Work with services on anticipating complaints and formulating responses which explain the change in procedures and policies
- Some useful learning points and outcomes from both complaint and whistle-blowing investigations

Chris Read
Corporate Customer Standards Officer

2: Recap of the Council's Complaints Procedure

The council's complaint process for 2016-17 has three internal stages.

First stage – the complainant initially contacts the council to express dissatisfaction about the service they have received. Many of these complaints are resolved by front line staff immediately, as errors are spotted corrected and an apology offered, or an explanation is given to explain the situation to justify why the situation is accurate.

Second stage – this is where the complainant remains dissatisfied and the complaint is referred to a senior manager within the appropriate service to consider.

Third stage – the Corporate Customer Standards Officer will review the actions taken by the service on behalf of the Council and Chief Executive and consider whether anything further can be done to resolve the complaint. The Local Government Ombudsman requires the council to give the complaint a final review before they may become involved with it.

Some complaints do not progress through the council's complaints procedure; these are usually complaints where a formal review process applies such as complaints relating to Childrens and Adults Services and Housing Benefit assessment complaints. The Ombudsman will consider some complaints before third stage review if they are considered urgent (for example school admission appeals).

Complaint stages are sometimes merged depending on the type of complaint received so as to ensure matters are dealt with appropriately and to ensure the complainant can progress to the Ombudsman as quickly as possible if matters have been dealt with.

It is worth noting that one of the policies which assist the complaints procedure, the Unreasonably Persistent Complainant Procedure is currently being replaced by a new wider policy which offers guidance to cover unacceptable behaviour. This document will be discussed with Cabinet shortly, but it does not substantively alter our approach to unreasonable complainant contact.

3: Support for the complaints process

The Corporate Customer Standards Section comprises of one Officer and 1.5 FTE assistants. The section also manages the council's Advice Service. Each individual service area retains a dedicated complaints contact although most officers perform more roles than just a dedicated complaints function.

My role is to ensure services receive timely reminders about the timescales set by the Local Government Ombudsman for councils to return complaint information to them (28 days), although the Local Government Ombudsman no longer reports these figures.

Services delivered an average response time of approximately **25** days in 2016/17. Only 65% of cases were responded to in the strict 28 day deadline, although 90% of cases were responded to within 33 days – more complex cases accounted for those being responded to outside of deadline. The longest time for response on a case was **38** days. These response times have remained broadly consistent over recent years and demonstrate services' continued commitment to resolving complaints and an appreciation of the value of an independent review process.

I am satisfied with the overall standard of second stage responses provided by officers across the Council. The standards demonstrate that complaints are considered against the appropriate procedures and legislation in place, and customers are offered full explanations for the decisions that have been taken.

I upheld 21% of cases investigated at third stage in the complaints process; broadly consistent with results of previous years. This gives some indication that the complaints continue to be robustly and accurately considered by services.

4: Statistics and results: Local Government Ombudsman

While some conclusions can be drawn from the statistics and results collated, it is important to note in comparison with overall numbers of public contacts with the council, only a tiny proportion are being analysed here. A small variation in numbers can make a big difference to the figures although it is noteworthy there is some consistency with Kirklees' performance.

Overall numbers of Ombudsman referrals could be affected by various issues including the amount of publicity Councils give complainants to the services provided by the Ombudsman. All third stage responses I prepare advise the complainant of their right to progress their complaint to the Ombudsman if they wish.

Kirklees Council: Number of complaints received by the Local Government Ombudsman by service.

Service	Kirklees Numbers 2014-15	Kirklees Numbers 2015-16	Kirklees Numbers 2016-17	% of total 2016-17	National Average by Proportion	W Y Prop
Adults	16	19	23	24.5%	15.2%	16.5%
Benefits, C Tax & NNDR	9	13	6	6.3%	12.5%	9.2%
Corporate and others	10	13	2	2.1%	6%	4.5%
Children's and Education	26	18	22	23.4%	17.7%	22.8%
Environment & Public Protection	10	8	13	13.8%	10 %	12.3%
Highways and Transport	8	6	4	4.2%	11.9%	10.1%
Housing (including KNH)	7	3	6	6.4%	12.1%	6.7%
Planning	9	13	17	18.1%	13.9%	17.4%
TOTAL	95	93	93	99%*	100%	100%

* 1 complaint in 2016/17 was described as “other”

Overall, numbers of complaints referred to the Ombudsman by the public has remained consistent for the past three years.

Service Analysis: Distribution of specific service complaints

There appears to be some considerable differences in individual Kirklees Service results when compared against national average. However, just a few complaints can vary the results and we must be mindful that the results of a large Metropolitan Council may well differ against national averages, which will include very small rural councils with a very different set of local enquiries and issues. It is more notable that the West Yorkshire averages tally much more closely to the Kirklees experience.

The two areas that stand out from the West Yorkshire Average are Adults (8% higher than the West Yorkshire Average (or a third more than might be anticipated)), and Highways (5.9% lower than the West Yorkshire Average (or fewer than half the Ombudsman complaints than might be anticipated)).

This year we had two important areas emerge from findings from Local Government Ombudsman investigations.

- There was a minor administrative issue around how clerks recorded decisions from School Admission Appeals Panels. The issue did not result in any amended decisions, and it should be noted that the service had dealt with matters as they had in previous years without comment or criticism. However, following discussion with the ombudsman an improved and clearer template for reporting School Admissions Appeals Panels have emerged. Staff find the new template easier to use, and the Ombudsman has not (to date) criticised cases considered using this new recording mechanism.
- There were also some questions around the transparency of the council’s adult services charging mechanism, and during the year there has been a substantial review and a change in the charging policy which has simplified this process.

No Formal Ombudsman Report 2016-17

The ultimate sanction that the Local Government Ombudsman can apply is a formal report. This ensures that a council’s failings receive maximum publicity and gives additional pressure on the local authority to change its procedures and to demonstrate it has learnt from the investigated complaint.

The Local Government Ombudsman did not issue a formal report against Kirklees Council in 2016-17. In the past seven years, just one formal report has been issued against Kirklees Council.

Comparison of Numbers of Ombudsman Complaints received against West Yorkshire Councils

The Ombudsman has provided headline figures of complaints received by each Council and my analysis confirms that Kirklees numbers continue to be broadly consistent with that of previous years.

The figures used to calculate the proportion of Kirklees Complaints against West Yorkshire totals come from the mid 2015 estimates of population from the Office for National Statistics. This has a Kirklees population of 434,321 against 2,281,718 in West Yorkshire overall (Kirklees therefore has approximately 19% of the total West Yorkshire population):

Total formal ombudsman complaints received

	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
Kirklees	66	61	110	95	93	94
West Yorkshire	352	329	604	582	585	540
KC Proportion	19%	19%	18%	16%	16%	17.5%

* shaded area shows “old” Ombudsman numbers – no direct comparison between these numbers and later numbers can be made as the Ombudsman now collates its statistics in a different way, although the proportion of Kirklees cases against West Yorkshire can be obtained for these years.

Upheld complaints

Nationally, the Local Government Ombudsman upheld 54% of the complaints it received where it undertook a detailed investigation. Kirklees Council achieved a figure of 52%; slightly better than average. In terms of West Yorkshire, Kirklees came in the middle of the table with Bradford also at 52% while Wakefield was best at 45%, Leeds was at 59% and Calderdale 62%. So this indicates the standard of our decision making is consistent with our neighbouring authorities.

In total, the Ombudsman upheld just 16 Kirklees cases; a tiny proportion of the total number of contacts between the council and the public. .

Details of the 16 cases can be found in Appendix 1. Most of the complaints were not investigated at third stage because the type of complaints meant they were not reviewed via this method.

It is noteworthy that of the 16, 9 related to Adult Service cases. Of these 9 cases, 7 related to situations where the relationship between the family and the council had become strained and in a number of these, poor communication was cited as an issue.

There have been cases that Adult Services have identified as being at risk of complaint, and senior managers have taken more care to communicate the procedures, policy and the decisions undertaken so as to ensure the resident is

better informed about the situation. There may be a continuing value to the Adults Service to monitoring those cases where it appears relations have broken down or become strained, to check the service is providing accurate and appropriate information to the resident, and to check whether there is a way for communication between parties to be better monitored and maintained.

The complaints have also helped to inform the Adults Service's processes and procedures as steps have been taken to inform residents of any likely contributions or charges for service at an early stage, and for the charging process to be simplified.

Three of the 16 complaints relate to the School Admission Appeals process. Although the process had not altered, the Ombudsman this year found fault with the way school appeal panel hearings were being recorded (as highlighted above).

While there are a number of cases in the process of being investigated, at this stage in the 2017-18 year, there does appear to be a reduced number of upheld complaints overall, and particularly within the Adults service (2 upheld cases to date, one of which related to Adult Services).

Responding to the Ombudsman

The Ombudsman has again criticised the council for "poor record keeping" and "not always providing the information required". While services have a reasonable track record of providing information in time, there have been some complex cases where we could have performed better in presenting information in a timely way. There have been isolated cases where a turnover of staff led to new managers with little or no prior knowledge of the case having to consider the issue with the Ombudsman. This has taken time to pick up.

I therefore fully accept the Ombudsman's criticism here, although it should also be noted there have been other occasions where the resident has experienced delay and error in obtaining an assessment from the Local Government Ombudsman (including 2 cases with outcomes that were reviewed and republished some months later). Nevertheless, the council need to strive to avoid error and maximise our reputation with the Ombudsman.

Reporting Ombudsman Findings to Members

This year in its annual letter to councils, the Ombudsman has also shared its expectations on reporting of maladministration to Members – this has been shared with all councils. The Ombudsman comment is as follows:

The statutory duty to report Ombudsman findings and recommendations

As you will no doubt be aware, there is duty under section 5(2) of the Local Government and Housing Act 1989 for your Monitoring Officer to prepare a formal report to the council where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration or service failure, and where the LGO has conducted an investigation in relation to the matter.

This requirement applies to all Ombudsman complaint decisions, not just those that result in a public report. It is therefore a significant statutory duty that is triggered in most authorities every year following findings of fault by my office. I have received several enquiries from authorities to ask how I expect this duty to be discharged. I thought it would therefore be useful for me to take this opportunity to comment on this responsibility.

I am conscious that authorities have adopted different approaches to respond proportionately to the issues raised in different Ombudsman investigations in a way that best reflects their own local circumstances. I am comfortable with, and supportive of, a flexible approach to how this duty is discharged. I do not seek to impose a proscriptive approach, as long as the Parliamentary intent is fulfilled in some meaningful way and the authority's performance in relation to Ombudsman investigations is properly communicated to elected members.

As a general guide I would suggest:

Where my office has made findings of maladministration/fault in regard to routine mistakes and service failures, and the authority has agreed to remedy the complaint by implementing the recommendations made following an investigation, I feel that the duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. In a small authority this may be adequately addressed through an annual report on complaints to members, for example.

Where an investigation has wider implications for council policy or exposes a more significant finding of maladministration, perhaps because of the scale of the fault or injustice, or the number of people affected, I would expect the Monitoring Officer to consider whether the implications of that investigation should be individually reported to members.

In the unlikely event that an authority is minded not to comply with my recommendations following a finding of maladministration, I would always expect the Monitoring Officer to report this to members under section five of the Act. This is an exceptional and unusual course of action for any authority to take and should be considered at the highest tier of the authority.

The duties set out above in relation to the Local Government and Housing Act 1989 are in addition to, not instead of, the pre-existing duties placed on all authorities in relation to Ombudsman reports under The Local Government Act 1974. Under those provisions, whenever my office issues a formal, public report to your authority you are obliged to lay that report before the council for consideration and respond within three months setting out the action that you have taken, or propose to take, in response to the report.

I know that most local authorities are familiar with these arrangements, but I happy to discuss this further with you or your Monitoring Officer if there is any doubt about how to discharge these duties in future.

Traditionally details of cases where complaints have been upheld by the Local Government Ombudsman are shared with Corporate Governance and Audit Committee on an annual basis (as part of the annual report). A decision is taken with regard to more serious matters on a case by case basis (and as an example, a complaint against the closure of the Whitcliffe Mount Sports Centre led to a review of matters by the Council's Cabinet during 2015-16).

The Ombudsman's annual letter suggests the Monitoring Officer should report to members regularly (and suggests annually is appropriate for a smaller council). It also suggests cases with learning which prompt policy change may need to be reported separately.

The Monitoring Officer has suggested it may be appropriate for Corporate Governance and Audit committee to receive a half yearly report on upheld complaints, and for the existing process whereby individual cases may be escalated for consideration as and when required to be retained. The opinion of Corporate Governance and Audit Committee would be welcomed.

Statistics and Results: Third Stage Complaints

Service	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Adults	2	0	3	2	3	1
Benefits, Council Tax, Business Rates	12	13	19	16	16	16
Corporate	7	12	4	5	12	8
Childrens & Education	0	1	5	5	4	5
Environment & Public Protection	12	21	11	10	15	-
Highways & Transport	13	6	12	12	6	11
Housing + KNH	9	4	8	5	5	2
Investment & Regeneration	-	-	-	-	-	4
Other	4	8	14	16	7	4
Planning	16	17	17	15	18	15
Resources & Procurement	-	-	-	-	-	3
Streetscene & Housing	-	-	-	-	-	16
Total	75	82	93	86	86	82
% upheld and Part Upheld	26.67%	20.7%	17.2%	20.9%	20.9%	21%

Overall numbers of third stage complaints have been broadly consistent over the past 6 years.

Given that the proportions of upheld complaints remain (once again) within the range of between one sixth and one quarter, performance appears consistent and services are reviewing complaints appropriately.

Third Stage Response Times

Once again as we recognise there is a correlation between customer satisfaction and response times, these have been recorded and the results are as follows:

Average number of days to respond: 19 days (2015-16 - 18 days)

Proportion of cases responded to in 20 days: 64% (2015-16 - 70%)

There has been a slight deterioration in service at third stage, and more effort is needed to try to respond to more complaints within the 20 day deadline.

Second Stage Complaints

Over recent years, I have become more engaged in second stage complaints handling through offering advice to services, and also in offering advice in relation to unreasonable behaviour of residents. There is a new general policy on unreasonable behaviour being introduced, so I anticipate this area of work taking up more of my time in future years.

In 2016-17 I was consulted on over 650 cases in total where I offered advice and input into complaint management, or where a situation was brought to my attention during the year. This is a similar number to last year.

5: Whistleblowing

The Head of Risk and the Corporate Customer Standards Officer investigate those cases directly reported to the Whistleblowing telephone line and email address. Other Whistleblowing investigations may take place through issues reported to the HR section or direct to the Audit section (which are recorded outside of this process).

It is worth noting that many of the cases received fall outside of the technical definition of a Whistleblowing complaint (the legislation seeks to protect internal staff if they “whistle-blow”) and many concerns arrive from members of the public.

Most Whistleblowing complaints received relate to an abuse of power, be they accusations of bullying and harassment, timesheet or annual leave irregularities or accusation of financial fraud. Some Whistleblowing complaints may be comparatively easy to resolve or prove (for example, checking whether a tracked Council vehicle was being used to transport children to school), others are much more general in nature and may straddle across the Council and other organisations responsibilities (for example, a general comment of corruption against a group given part Council funding for a specific project).

The Whistleblowing procedures require the Head of Risk and I (as Corporate Customer Standards Officer) to assess the issue raised and agree a course of investigative action.

Given the nature of the complaint, many reviews are undertaken substantively by Internal Audit and/or HR. Outcomes can include disciplinary or even criminal action against employees and a review of procedures to ensure that they minimise the risk of undetected wrongdoing.

Services are reminded that employee whistle-blowers are legally protected from persecution and that they should play their part to ensure that reviews are impartial and that concerns are reasonably considered.

Whistleblowing issues may be referred to the Corporate Governance and Audit Committee or to Scrutiny for their consideration. Those investigated by internal audit are reported as a part of other reporting mechanisms to Corporate Governance and Audit Committee.

Whistleblowing contact details remain confidential at all times.

During the year 2016-17, 21 Whistleblowing referrals were received via either the Whistleblowing e-mail address (www.whistleblowing@kirklees.gov.uk) or telephone (01484 225030). This is a considerable increase on previous years (which are traditionally in the low teens)

An issue arising from one of the whistleblowing cases was around managing the whistleblower's expectation of how their concerns might be considered, and an expectation that some issues raised might be considered through the whistleblowing process while others would not.

It also became apparent that colleagues in a number of services believed the information they were receiving was "for information" rather than a direct request from the whistleblowing co-ordinators for action to be taken. This could have been due to a number of staff changes in those service areas. This led to some avoidable delay in considering matters.

A review of matters determined that the Whistleblower co-ordinators should be more explicit about what action they are expecting from services, and for a short revision of the policy to set out that if the whistleblower raises something of concern then the council is obliged to deal with it in the way they feel appropriate.

Appendix 2 offers a suggested revised version of the whistleblowing policy to fulfil this requirement.

Children Service Concerns

Issues with our Childrens Service (well documented elsewhere) had an impact upon the number of Whistleblowing complaints received in-year. The change in service management and a change in direction and focus prompted a number of concerns about perceived bullying and staff recruitment. In total six Whistleblowing concerns were raised in relation to this area, and it prompted a number of actions including a review of the use of recruitment agencies, investigations into the history of individual staff members, a review of office accommodation, and a communications project to better explain the objectives for the service.

Breach of Data Protection Accusations

We also received an accusation that a staff member had accessed council records for their own gain. This was unsubstantiated as the information alleged to have been accessed was available to the public through the land registry and the individual officer did not hold individual access to the records.

Another complaint related to a member of the housing benefit team who was alleged to have shared personal data about a neighbour. This was not proven after records were checked, but it led to a reminder being issued to staff about data protection.

A further accusation was received that a staff member had accessed sensitive child protection data, but this was unproven after it was found the alleged record did not exist on the council records.

On each occasion the concern was reported to the data protection team and the way forward agreed so as to ensure openness and transparency.

Councillor Abuse of Power Allegation

We received a claim that a councillor was blocking the sale of land because of a personality clash with the purchaser. However, an audit review determined that the body involved was correct to seek maximum capital from the asset, and that a better offer had been received for the site.

Personal gains

We received allegations that an individual was gaining from the purchase of goods because of a nectar point offer which was thought to be going into a private account. It was determined that no points were being issued for the goods and a discount had been secured for the council instead.

An allegation that an estate caretaker was improving their home with goods ordered by building services was discounted because of the process used to purchase these items.

An allegation that a small donation provided by a grateful member of the public had not been used and shared appropriately was received. This led to a review of processes into the recording of hospitality although no inappropriate misappropriation of the donation was found.

An allegation was received that an employee was working for a different business while he was claiming to be off work through sickness. The matter was investigated and the employee dismissed.

Concerns about the costs and control for works for a building that the council has an interest in was raised. It was determined there was sufficient controls within the process to ensure the situation was being properly and reasonably monitored.

School complaints

A formal investigation took place into a number of claims against the activities and management style of a Head Teacher in a council maintained school, and safeguarding allegations. A report was prepared for the Chair of Governors and the Governing Body took a decision on the appropriate action and way forward for the

school (the Governing Body controls the activity of the school). A separate safeguarding investigation took place.

A complaint about inappropriate behaviour at a party involving school staff was passed to the Governing Body to consider.

A safeguarding complaint about the behaviour of a teacher at a school was received and was considered by the LADO and a safeguarding audit took place.

Adult Service Care Provider

A complaint was received about unsafe practices and lack of training for staff at a private care provider. Adult Services monitored the Care Provider and found the concerns could not be substantiated.

6: Learning from complaints

One key component of complaints handling is around learning from complaints to ensure services are delivered more effectively in future.

In terms of complaints handling, our standard convention of clearly setting out the reasons for any decision and where appropriate explaining why the service cannot uphold the residents position is well established.

Learning from individual cases

Many of the complaints received will identify some areas where the council could have done something differently to improve the eventual outcome. Many of these improvements are around general communication to ensure the complainant fully understands the reason for the decision that was made and in some cases a delay has created additional frustration.

Examples through the year include the following areas:

A resident was late for an appointment to register the birth of his son because of works to the town hall restricting parking places, and the changes to the traffic flow because of the introduction of bus gates. Staff were asked to remind residents of the parking situation and of the new bus gates when they called for appointments.

A resident complained about a condition of a council vehicle borrowed through the Camoodle scheme. Advice was offered to Camoodle about ensuring expectations were set about the vehicle being one used during the day, rather than necessarily being cleaned like a van hire vehicle might be.

A complaint about how matters about a sale of land were considered by a council committee was received. This led to consideration and discussion about what matters may be discussed in public and those that must be considered in private. The complaint offered further opportunity for learning and consideration.

A complaint from a taxi driver who was seeking to use his Kirklees license for another council area led to a review of the advice provided to taxi drivers about how they may use their registration.

A resident had an argument with tip operatives which resulted in their access to the tip being restricted. Unfortunately the resident did not receive clear notification of this, and the complaint resulted in a new process being agreed between the council and the site operator to ensure such matters were co-ordinated.

A complaint about a care home led to a formal review of practice at the home convened by the council. The family wanted to show a short video of the home. The Chair of the meeting did not allow footage to be shown arguing it was not relevant. As a result of this, and a somewhat hurried approach to the meeting, the resident's family felt the council was disinterested in their complaint. While there was some merit to the Chair's comments, it was felt the family should have some influence on the information it wanted to share with the meeting, particularly given the footage was not long.

A complaint was received and it was clear from the offset that it would take some time to review and to go through. Rather than explain and negotiate the timescales with the resident, the service used standard letters which implied a much shorter timescale. This set an unrealistic expectation although the investigation itself was detailed. It was agreed that a more realistic timescale would have helped in this instance.

Appendix 1: Upheld Ombudsman Complaints

Service Area	Situation	Third Stage	Omb Additional offer
<p>Adults 15005184</p>	<p>Mum complained on behalf of adult daughter with learning disabilities.</p> <p>Mum felt the council did not assess her daughter's needs properly or provide adequate care because the Council wrongly placed emphasis on maintaining her daughter's independence, when she is not independent. It also made decisions for her daughter based on questions that she does not have the capacity to understand.</p> <p>Mum says there were delays assessing her daughter's needs and she has had difficulty contacting officers. The Council also refused to offer mum support as a carer or pay her for the support she provides</p>	<p>Not investigated</p>	<p>The Ombudsman did not consider there was fault in the way the Council assessed the daughter's care needs.</p> <p>While the Ombudsman did not outline any specific fault, it identified that Mum had provided additional support to her daughter when a second personal assistant left and they recommended the council make a payment of £2000 to cover this work from the direct payment allocated over March 2015 – Feb 2016.</p>
<p>Adults 15008844</p>	<p>Father of a severely disabled adult son complained about the delay in providing specialist equipment to</p>	<p>The difficult historic relationship between parties was explored, and advice was offered to father</p>	<p>The Council paid a total financial remedy of £500 to acknowledge the distress and time and trouble.</p>

	<p>meet his needs, and in relation to emails sent by the council about the family to contractors.</p> <p>Supply issues were around flooring, hoist, specialist chair, exercise bike and bed.</p>	<p>around his communication, which made it difficult for the service to handle the enquiries effectively, and to lead officers to conclude he was likely to complain.</p> <p>A detailed explanation for delays was provided along with an apology for the difficulties with communicating information to him.</p>	<p>Fault was found in relation to communicating a delay with the supply of the chair (manufacturing issue) and with a delay with supplying the bed.</p> <p>The Council also apologised for any upset caused by the content of emails sent to a contractor</p>
<p>Adults 15011576</p>	<p>Mr X complains that the Council may have overcharged his mother for home care services and for respite care. The total bill was for £1500.</p>	<p>Not investigated at third stage.</p> <p>The service identified that an overcharge for a planned home care charge for £13.16 when mum was in respite care had been incorrectly charged.</p> <p>It did not contact Mr X with this information because he had asked not to be contacted.</p>	<p>The Ombudsman found there was fault by the Council because it wrongly included a charge for a home care service in the invoice it sent to Mr X. This was for the amount of £13.16.</p> <p>The matter was settled with an apology.</p>
<p>Adults 15011660</p>	<p>The complainant, Mr B, complained the Council:</p> <ul style="list-style-type: none"> • reduced his son's care package when his needs had not changed and delayed recognising that; and 	<p>Not investigated at third stage.</p> <p>The service apologised for not identifying the issue with the family using direct payment for food and drink at an earlier stage, but felt it had clarified the</p>	<p>The Ombudsman felt there was a lack of clarity in the assessment of the care package, but agreed it seemed likely the budget had been reduced as a result of the families discussion around the need for a</p>

	<ul style="list-style-type: none"> • Unreasonably refused to allow his son to use part of his direct payment to cover food and drink despite being allowed to do so in previous years. 	<p>position. It also identified that the family had agreed to help lift their son, meaning no payment for a second carer was due.</p>	<p>second carer. They also identified the council had not undertaken a moving and handling assessment.</p> <p>They agreed the family will have been confused and upset with a change in the use of direct payment for food and drink.</p> <p>Compensation of £500 was recommended and paid together with an apology to the family.</p>
<p>Adults 15013357</p>	<p>The complainant, Mr Y complains in his own right and on behalf of Mr S who he supports as a carer through the “Shared Lives” (SL) programme. Mr Y complains that the Council failed to :-</p> <ul style="list-style-type: none"> a) properly transfer Mr S’s care from a fostering arrangement to a SL programme; b) provide Mr S with a support plan; c) advise Mr S about how the SL would affect his weekly income; d) advise Mr S about charges for day 	<p>Not investigated at 3rd stage</p>	<p>The Ombudsman upheld the complaints that there was delay in the Council telling Mr Y about actions it was taking about day services and charges.</p> <p>The Ombudsman did not uphold the complaint that the Council was at fault for expecting Mr S to contribute toward his day support and more generally his social care.</p> <p>Compensation for £200 and an apology was issued, and a range of recommended actions to provide a current support plan, a reminder to complete risk</p>

	<p>support;</p> <p>e) properly take into account Mr S's "Disability Related Expenditure" (DRE).</p>		<p>assessments, document when people agree to privately fund services, and to provide residents information about potential social care charges.</p>
<p>Adults – 15016510</p>	<p>The complainants, Mr and Mrs B, are complaining about the care and treatment provided to their son, Mr G, by the Council and North Kirklees Clinical Commissioning Group (the CCG).</p>	<p>Not investigated at third stage</p>	<p>No errors found in relation to the care and treatment provided. However, the Ombudsman found 2 errors within the 9 independent reviews that had taken place, and advised the council apologise for these. No compensation required.</p>
<p>Adults – 15017848</p>	<p>The complainant, Mrs S complains about the assessments the Council completed for her and her husband, Mr S. She complains that there was delay in the completion of the assessments, they were incomplete, officers failed to provide her with information; and to complete a checklist for NHS continuing health care properly.</p> <p>2. During the complaint investigation Mrs S's advocate has made the decision to only visit Mrs S in twos on the advice of the Council. Mrs S is</p>	<p>Not investigated at third stage</p>	<p>The Ombudsman found there were inadequacies in the original assessment the Council completed and in the information the Council has provided to Mr and Mrs S throughout its involvement.</p> <p>Remedies included an apology to the family about the failure to complete the first assessment properly, delay, failing to provide enough information; and failing to complete a carer's assessment, and to address the situation and to backdate any assessed direct</p>

	unhappy with this decision.		payment to the date where it might reasonably be paid, and to remind colleagues of the processes.
Adults 15018447	<p>An advice centre on behalf of the complainant (Mrs B) complains that the Council did not properly inform Mrs B of the charges payable for a period of residential care.</p> <p>As a result Mrs B was charged more than she expected.</p>	<p>Not investigated at third stage</p> <p>This case was complicated by the fact that Mrs B had a hospital stay at a hospital out of area.</p>	<p>The Ombudsman found no recorded evidence of the conversation the staff nurse had with Mrs B on the ward.</p> <p>On the basis the duty social worker was waiting on the phone, it must have been a brief conversation which could not have explained properly to Mrs B the implications of her decision.</p> <p>However, the Ombudsman concluded the charges were properly made. The council agreed to pay £500 compensation in recognition of distress caused by its failure to communicate properly, and the uncertainty about the length of stay in the care home.</p>
Adults 16009362	<p>Mr Y, complained:</p> <p>a) The Council failed to clearly explain care charges for his mother, Mrs X, dating back to 2011. It double-</p>	Not investigated at third stage.	The Council was at fault in how it calculated Mrs X's care charges, and how it communicated the charges to Mr and Ms Y. The Council was also at fault when it

	<p>charged for some services and has continued to charge following Mrs X becoming eligible for Continuing Healthcare (CHC) funding. In addition, assessments and billing have been inconsistent and billing has not been timely;</p> <p>b) The Council did not complete a Carer's Assessment in a timely way for Mr Y's partner, Ms Y, despite requests.</p>		<p>did not carry out a carer's assessment for Ms Y.</p> <p>The Council has agreed to arrange an independent audit of Mrs X's account and to investigate the reasons for miscalculations.</p> <p>It agreed to reduce Ms X's arrears by £500 and to pay £250 to Mr and Ms Y to acknowledge the uncertainty and time and trouble caused to them and to issue a written apology.</p>
<p>Planning 15018505</p>	<p>Mr D complains the Council failed to follow the correct procedures when it granted planning permission to a neighbour's application for a rear kitchen extension and decking; as a result, the development affects his amenities.</p>	<p>Third Stage complaint investigation determined that the planning process appeared regular, and quoted the policy which states the service is not required to re-publicise any changes to the proposed development.</p> <p>The complainants also felt it inappropriate for planning officers to discuss variation to the plans which might be more acceptable. The review found this to be</p>	<p>The Ombudsman was satisfied the Council did not ignore national and local planning policies.</p> <p>However, the Ombudsman found fault that the council's policy not to re-advertise changes to planning application fettered their discretion – the change could be large or small. In this instance the resident was aware of the change and was not disadvantaged as they made representation against it.</p> <p>The service was also criticised for</p>

		regular.	not recording details of pre-planning advice given.
Planning 15019470	<p>Mr X, says the Council is at fault in its consideration of a planning application for a development near their homes.</p> <p>Mr X says the Council was unaware the garage of Mr and Mrs Y's home was used as a habitable room until the application was discussed at a Planning Committee meeting.</p>	<p>The review determined an error had been made in that the statement the garage was converted to a habitable room had been missed. An apology was offered.</p> <p>However, it was not felt that this error altered the eventual outcome of the planning application.</p>	<p>The Ombudsman concluded the status of Mr and Mrs Y's garage as a habitable room was not clarified in the case officer's report. This is fault as a case officer's report on a planning application should accurately set out the objections received.</p> <p>This meant that Planning Committee members were not aware of the status of Mr and Mrs Y garage prior to the Committee meeting. However this matter was brought to its attention at the meeting by both the spokesperson for the objectors and a councillor.</p> <p>Committee members were aware of the use of the garage when making its decision.</p>
Special Educational Needs 15019178	<p>Mrs X complains the Council:</p> <p>a) did not finalise her son's Statement of Special Educational Needs (Statement) until 12 months</p>	<p>Not dealt with at third stage – there is an appeals process in place for elements of the complaint.</p>	<p>The Ombudsman determined there was fault when the Council did not finalise Y's Statement within the statutory deadline and did not identify a suitable school</p>

	<p>after the statutory deadline;</p> <p>b) took too long to find a suitable school for Y; and</p> <p>c) did not carry out the agreed educational provision in Y's Statement relating to speech and language and occupational therapy.</p>		<p>for him to transfer to in September 2015.</p> <p>They recommended the council apologise, pay the family £1500 compensation and take steps to ensure the government guidance is adhered to.</p>
<p>School Admissions Panel</p> <p>16002456</p>	<p>Ms X complains about the way a school admissions appeals panel considered her appeal for her preferred primary school for her child.</p>	<p>Not dealt with as a third stage complaint as a separate review panel in place.</p>	<p>The Ombudsman determined neither the clerk's notes of Ms X's appeal hearing nor the clerk's decision letter specifically record a decision by the panel that admitting another child would breach the infant class size limit. That calls into question whether the panel consciously made that decision.</p> <p>The Council agreed to review the way appeal panel decisions are recorded.</p> <p>To review the information it puts into individual schools' cases in infant class size appeals, to ensure the information explains fully why the school cannot take</p>

			<p>measures to admit more children;</p> <p>panel and clerk training, to ensure panels question properly school cases where infant class size limits apply and clerks ensure decisions on the breach of class size limits are both made and recorded clearly.</p>
<p>School Admissions Panel</p> <p>16007645</p>	<p>Mrs X complained:</p> <p>a) the Admissions Appeal Panel failed to properly consider her appeal against the refusal of a place for her son to attend School A.</p> <p>b) the Council refused her a second appeal.</p> <p>c) The Council has not applied the “excepted child” criteria to allow her child to attend School A.</p>	<p>Not dealt with as a third stage complaint as a separate review panel in place.</p>	<p>There was no fault in the way the Appeal Panel dealt with Mrs X’s appeal or in the Council’s consideration of excepted pupil status.</p> <p>The Council failed to respond appropriately to Mrs X’s material change in circumstances (a change of address). To remedy this it has agreed to offer Mrs X a fresh appeal.</p>
<p>School Admissions Panel</p> <p>16007762</p>	<p>Mrs X complains about the way a school admissions appeals panel handled her appeal for a place at her preferred middle school for her child.</p>	<p>Not dealt with as a third stage complaint as a separate review panel in place.</p>	<p>The Council has agreed to arrange a fresh appeal for Mrs X. The notes of the meeting could not definitively show that the panel correctly considered information about the availability of transport given the family had moved</p>

			<p>address.</p> <p>The Council has already agreed to review the way appeal panel decisions are recorded. The review is to ensure future recording of decisions on the lawfulness of the Council's admission arrangements and their application to the child in question.</p>
<p>Children's Service</p> <p>16006360</p>	<p>Miss X complains about the Council's involvement with her family since 2013. In particular she says the Council:</p> <ul style="list-style-type: none"> • Carried out an inaccurate children's services assessment. • Did not take her disability into account when dealing with her. • Revealed her address to her ex partner. • Failed to act on the recommendations of a stage two investigation into her complaint. 	<p>Not investigated at third stage – part of the statutory complaints process.</p>	<p>The Ombudsman concluded that while the Council acted on the stage two findings it failed to follow the statutory complaints process.</p> <p>The Council has agreed to apologise to Miss X, pay her £150 for her time and trouble and review how it responds to children's services complaints.</p>

Appendix 2: Proposed revised Whistleblowing Policy

Whistleblowing: Independent Reporting of Concerns at Work (October 2016)

1. Introduction

Our employees will often be the first to notice if there is something seriously wrong within their workplace. Sometimes it may seem difficult to speak up because of feelings of disloyalty, or because of a fear of harassment or victimisation. We expect the highest standards of behaviour and all employees have a responsibility to voice any concerns they have, normally with their manager or assistant director.

This Whistleblowing procedure is independent and confidential. It can be anonymous if you wish. We will make sure that you will not be victimised or suffer disadvantage if you report your genuine concerns.

It allows employees to bring to the attention of those who can make a difference any practice which they believe or suspect:

- is unlawful
- is a serious breach of the council's policies, procedures and rules (for example, the Contract Procedure Rules)
- falls substantially below established standards of practice
- amounts to improper conduct

It is difficult to come up with a complete list of issues which might cause concern, but you should report known or strongly suspected fraud, corruption, bribery, theft or financial irregularities; the physical, mental or sexual abuse of clients; unfair discrimination; abuse of power; dangerous practices; criminal conduct; serious damage to the environment; negligence; unprofessional behaviour ; evasion of statutory responsibilities or where you believe that an activity is taking place which involves gross waste or mismanagement of funds.

The malpractice might be carried out by council employees, contractors, consultants, or councillors.

This procedure is not to be used if you are generally dissatisfied at work or as a replacement to your existing employment rights with the council. If you make any allegations maliciously or for personal gain, disciplinary action against you may be considered.

This policy is endorsed by all the trade unions representing council employees.

2. How to raise a concern

a) Through your manager

Normally you should first speak to your immediate manager. If you feel that you cannot do this – for example if you believe that they are involved – then you should speak to your Service Director. If you feel that you cannot discuss this with anyone within your Service area, you can contact the Service Director who has overall responsibility for Whistleblowing – who is Julie Muscroft, Service Director of Legal, Governance and Community (who can be contacted by way of the council main switchboard 01484 221000 or julie.muscroft@kirklees.gov.uk.)

b) Through the Whistleblowing route

If you do not feel able to contact any of these people you should call the council's Whistleblowing answerphone – ring 860 5030 or 01484 225030 or email whistleblowing@kirklees.gov.uk

You should give as much information as you can, including names, dates, places, history and why you are concerned. You are encouraged, but not required, to leave your name and contact details – it is much easier to investigate a concern if we can speak to you directly and confidentially.

All messages on the answerphone and email will be heard and seen only by the council's Corporate Customer Standards team. They will then review all messages confidentially, and contact either the Head of Risk or the Head of HR.

Involving your Trade Union

You may want to raise your concerns through your Union, and discuss with them the options available, or seek their help in taking your concerns forward.

3. How your concerns will be dealt with

All allegations will be investigated: how and by who depends on how serious they are and who they involve. The investigation may be handled internally, or referred to an external agency such as the council's external auditor or the police. Internal investigations will be undertaken by an appropriate department, such as Internal Audit or HR, or in some instances by senior management within the service. The Corporate Customer Standards Officer retains overall responsibility for ensuring that all concerns are properly considered and dealt with appropriately.

If you raise your concerns under this policy then we will write to you within 10 working days saying:

- what we intend to do
- how long we think this will take
- whether any more information is required from you

We will let you know the outcome of the investigation, so that you can see that the matter has been properly addressed.

Please note we will discuss and seek to agree how we intend to progress matters you have raised. However there may be occasions where we feel we have a responsibility to progress matters in a particular way, and the ultimate decision to progress or investigate matters is for the council.

The council's Corporate Governance and Audit Committee will receive regular reports summarising all concerns raised under this policy.

If you make a Whistleblowing complaint, you have a right not to be bullied, harassed or mistreated as a consequence of this. If you believe that you are suffering detriment as result of your complaint you should report this to the Corporate Customer Standards Officer.

Any person who treats a whistle blower in a detrimental way as a result of their whistleblowing will be liable to disciplinary action.

4. Raising your concerns elsewhere

This Whistleblowing policy has been drawn up so that you can have your concerns dealt with properly, independently and confidentially by the Council. But if you have no faith in this process, then you may consider contacting:

- A councillor
- The council's external auditor – KPMG, 1 Sovereign Square, Leeds LS1 4DW or phone 0113 231 3148
- The police – phone 101 from any phone
- Public Concern at Work – an independent authority on whistleblowing at www.pcaaw.co.uk or phone 020 7404 6609
- An appropriate regulatory body, that the government believes may be appropriate to receive whistleblowing concerns as set out in; Department of Business Innovation & Skills 15/298; Blowing the Whistle to a Prescribed Person; List of Prescribed Persons & Bodies
Web address:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf

5. Things to check

We welcome you raising your concerns, but do think about the need to be reasonably discreet;

- If you do decide to report your concerns outside the council, you must not disclose confidential information
- It's unlikely to be helpful to send mass emails

Provided that your behaviour is appropriate you will retain the statutory protection offered to Whistle-blowers.

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If you want more information about Whistleblowing, you might want to look at the government website

<https://www.gov.uk/whistleblowing/what-is-a-whistleblower>

If you are thinking about whistleblowing, but are a bit unsure about anything in this process, you can speak to the Corporate Customer Standards Team.

Revised at Corporate Governance & Audit Committee on 15 September 2017