

**Name of meeting: Corporate Governance and Audit Committee**

**Date: 30.01.2018**

**Title of Report: Corporate Customer Standards Officer Interim Report (2017-2018)**

**Purpose of report**

To update CGAC with information about Kirklees Council complaints performance between April -October 2017, to set out details of those complaints where the Local Government Ombudsman found fault, and to highlight examples of learning from complaints over the period. The report also updates the ongoing discussion regarding the Whistleblowing Procedure. CGAC to note the contents of the report.

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>No</b>
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	<b>No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Yes</b>
<b>Date signed off by <a href="#">Strategic Director</a> &amp; name</b>	<b>Debbie Hogg</b>
<b>Is it also signed off by the Service Director for Finance IT and Transactional Services?</b>	<b>As above</b>
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning Support?</b>	<b>Julie Muscroft</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Graham Turner</b>

**Electoral wards affected: All**

**Ward councillors consulted: N/A**

**Public or private: Public**

**1. Summary**

The council once again received fewer ombudsman complaints than may be anticipated for population when compared with West Yorkshire Councils as a whole. It also received a smaller percentage of upheld complaints in comparison with last year, and is second performing council in West Yorkshire at this stage.

A summary of complaints upheld by the Ombudsman during the period and some examples of identified learning are provided. Information about how the council can improve the way it learns from complaints is provided.

An update relating to the on-going discussion regarding the Whistleblowing procedure is provided. We propose to ensure Whistleblowers are given advice about how their concerns may be handled as soon as their concerns are logged. The provisions within GDPR legislation may require a review of the information provided.

**2. Information required to take a decision**

Report provided for information and discussion.

**3. Implications for the Council**

**3.1 Early Intervention and Prevention (EIP)**

**3.2 Economic Resilience (ER)**

**3.3 Improving Outcomes for Children**

**3.4 Reducing demand of services**

Learning from complaints handling should generate efficiencies for the council and improve the customer experience by minimising the number of customer contacts.

**3.5 Other (e.g. Legal/Financial or Human Resources)**

To maintain and improve council reputation with regard to complaints handling.

**4. Consultees and their opinions**

None

**5. Next steps**

To discuss the opportunities for learning from complaints widely with senior managers. CR to attend Executive Team in due course.

**6. Officer recommendations and reasons**

To note the information provided and to discuss learning from complaints.

**7. Cabinet portfolio holder's recommendations**

**8. Contact officer**

Chris Read, Corporate Customer Standards – 221000 [chris.read@kirklees.gov.uk](mailto:chris.read@kirklees.gov.uk)

**9. Background Papers and History of Decisions**

N/A

**10. Service Director responsible**

Debbie Hogg

## Corporate Customer Standards Interim Report April – October 2017

To respond to a previous decision by Corporate Governance and Audit Committee and Local Government Ombudsman recommendations, this is an interim report detailing Ombudsman complaint outcomes. The document also incorporates information relating to learning from complaints and provides an update to the Whistleblowing Procedure.

### 1: Ombudsman Update – health indicator

- 1.1 Kirklees have received fewer investigations this year so far, and have performed better overall with a lower percentage of cases upheld.
- 1.2 Looking at the cases published on the Ombudsman website for the first 6 month period determines the following figures.

### Ombudsman Case Summaries Published - April – October 2017

Authority	Number Considered	Upheld	Percentage upheld
Bradford	29	7	24%
Calderdale	18	7	39%
<b>Kirklees</b>	<b>18</b>	<b>4</b>	<b>22%</b>
Leeds	54	15	28%
Wakefield	14	1	7%
<b>Totals</b>	<b>133</b>	<b>34</b>	<b>26%</b>

- 1.3 Kirklees has approximately 19% of the population in West Yorkshire. Here approximately 14% of West Yorkshire complaints came from Kirklees, and the proportion upheld was the second best, and better than the West Yorkshire average.
- 1.4 In relation to the number of third stage complaints handled, the numbers received so far in 2017-18 compare very closely with that of recent years at the same stage.

### 2: Learning: Ombudsman Cases Upheld

Cases upheld by the Local Government Ombudsman over the period 1 April – 30 September are as follows:

- 2.1 **Adults: Residential Care** - The Council did not provide Mr B with a satisfactory standard of care at its care home. It has apologised to his daughter, Mrs X for this. We are satisfied the actions it has taken because of Mrs X's complaint should prevent this happening again. It has agreed to write to Mrs X to explain its actions to improve the standard and quality of care at the home.
  - 2.1.1 **Learning:** *The Council said it would improve practice at the home to make sure the situation did not reoccur. In summary it would:*
    - *Hold meetings with staff at all levels to share learning from the complaint and discuss what needed to change to prevent it happening again.*
    - *Improve handover procedures between team leaders and support workers to make sure each member of staff is clear about residents' care needs.*
    - *Remind staff about the importance of accurate care record keeping*
    - *Reminded managers of their responsibility to provide high quality care, avoid complacency and be on the lookout for poor practice. Also remind managers to challenge and deal with poor practice.*
    - *Reminded all staff about their responsibility to provide quality care and improve practice.*
    - *Appoint a coordinator to improve how the home responded to concerns.*

- *Arrange staff training on dignity in residential care.*

*The Council apologised to Mrs X for how the care home had responded to her first complaint. It accepted its first response was unhelpful and unproductive. It had spoken to the care home managers to make sure they would properly respond to future complaints.*

**2.2 Adults: Domiciliary Care** - The Council failed to ensure it met Mrs X's needs through its care plan and that Mrs X took her medication. It also failed to keep a complete care record of the care Mrs X received. The Council has agreed to apologise to Mrs X's son, Mr Z. It will also review its procedures to ensure it gives clear instructions to care providers.

**2.2.1 Learning:** *The Council has agreed, within six months, to carry out its offer to review its procedures. It should amend its procedures to ensure it gives clear instructions to care providers on how to meet a person's assessed needs.*

**2.3 Children's: Special Educational Needs** - Summary: The Council was at fault when it failed to provide the speech and language therapy and occupational therapy set out in Part 3 of Mrs M's son's Statement. The Council has agreed to apologise to Mrs M and pay her £1,350 for her unnecessary distress and time and trouble and to help remedy the injustice caused to her son. There is no fault in the Council's provision of her son's Applied Behavioural Analysis therapy or its decision to hold her son's annual review in the autumn term of 2017.

**2.3.1 Learning** *The Council has made efforts to commission the occupational therapy S requires but has experienced problems. This is because the therapist services wish to carry out their own assessment before working with S. The Council is reluctant for the therapists to do this as it is concerned the assessment will recommend a different type of therapy to the one specified in S's Statement. The Council is concerned this would lead to it being in breach of its duty to provide the therapies detailed in S's Statement. Instead of taking this risk, the Council has chosen to provide no occupational therapy at all for two terms and continues to provide none. This is fault. The Council is obliged to ensure it is provided and its duty is non-delegable. The Council needs to resolve the lack of occupational therapy quickly to reduce the impact on S.*

**2.4 Adults Charging** - There was no fault in the way the Council finally invoiced Mrs X for Mrs Y's care. There was fault in the way the Council financially assessed Mrs Y for her care. The Council has corrected this with an adjustment. There was fault in the way the Council issued invoices for the wrong care home and after Mrs Y's death. There was fault in the delay in sending the final invoice although they had originally contacted the family to discuss the matter. The Council has redressed the distress this caused with an apology and waived part of the final invoice costs.

**2.4.1 Learning** *There was no fault in the way the Council finally invoiced Mrs X for Mrs Y's care. This complaint is not upheld.*

*There was fault in the way the Council financially assessed Mrs Y for her care. This complaint is upheld. The Council corrected this with an adjustment. This is enough redress for any injustice suffered.*

*There was fault in the way the Council issued invoices for the wrong care home and after Mrs Y's death. This complaint is upheld. The Council has apologized for this error. This is enough redress for any injustice suffered.*

*There was fault in the delay in sending the final invoice. This complaint is upheld. The Council has redressed the distress this caused with an apology and waived part of the final invoice costs. This is enough redress for any injustice suffered.*

*I am pleased to see the Council has already looked at reducing backlogs and improving procedures. The situation is not likely to reoccur.*

### **3 Complaints learning –**

#### **3.1 Examples from Third Stage Complaints**

- 3.1.1 There was a complaint about a situation where a business was successfully prosecuted. A pre-prepared press release did not mirror the exact changes that were successfully progressed.

Press statements are pre-prepared as the press are required to publicise the court action as soon as possible following the court. It was agreed that the mis-match in the press statement was an error which could have been avoided, and more care needed to be taken on such matters.

- 3.1.2 We received a complaint in relation to the new administration charges applied for providing adult care services. The service provided in this instance was one that could only be obtained from the Council and the service user argued they therefore had no choice but to have to pay the service charge. The service agreed that the charge could be waived in such instances.

- 3.1.3 A parent of a premature born child complained against a council panel decision not to allow their child to start school out of chronological year age. The parent explained that regardless, they would delay the child's entry to school until the legally permitted period. This meant in effect the child would miss out on reception year schooling, and after a further year at nursery with younger children, would then be required to join other children of the same chronological year age the following year.

The complaint investigation determined that not enough weight had been placed on the parents intentions, although there was no evidence to suggest the child needed to delay joining school. We offered support to the parent so they could obtain advice to make a fully informed decision about what was best for the child.

#### **3.2 Increasing emphasis on complaints learning**

- 3.2.1 Senior managers have asked for some feedback about how we can apply more intelligence from complaints handling into everyday operations.

- 3.2.2 One area we could expand is around incorporating complaints handling into project planning for service change. A communications plan to incorporate likely complaints would have the following benefits:

- If a complaint can be anticipated, the circumstances where they occur may be able to be mitigated (either through an amendment to the policy or to the intended procedure)
- Standard responses help staff understand the change in procedure and it also ensures a consistent message is shared with the member of the public.
- Pre-planning means time can be saved when the type of complaint is received as they can be handled in a similar way (accepting there will always be some variation and individual situations to consider).

- 3.2.3 There could also be a system whereby complaints handling is incorporated as standard into PRD and 1:1 discussion for Senior Managers, in terms of identifying individual service learning in keeping tabs on ongoing key cases, and to ensure that complaints are given emphasis and priority.

- 3.2.4 There needs to be greater recognition that some residents are more likely to make complaint than others. This could be created through a number of causes – for example, a generally high expectation of the level of service anticipated, anxiety created through poor service received in the past, a poor relationship/trust issue with the council, a need to receive a high level of personal attention etc. The relationships with these residents need more careful management and services should identify those cases that will carry more risk of complaint.
- 3.2.5 Work on how to embed learning from complaints and how to share the outcomes with staff to gain assurance and evidence that the learning has been picked up is required.
- 3.2.6 This work will be discussed with the wider senior management ground and expanded in the near future. The Corporate Customer Standards Officer is to attend a meeting of Executive team in the near future.

### **3.3 Concerns with timeliness and accuracy of responses to the Ombudsman**

- 3.3.1 At the point the complaint has reached the Local Government Ombudsman, the resident has probably already progressed their complaint through perhaps three complaints processes and is keen to see final resolution. It is thus vital that our responses to the Ombudsman are complete, timely and accurate. There are also reputational issues with the Ombudsman if services appear to be unable to produce timely and comprehensive responses.
- 3.3.2 Unfortunately, we have identified occasional continuing issue with the responses we receive from services:-
- Deadlines are missed but the Ombudsman is not advised until the day of deadline expiry or a new deadline requested until the end of the response period.
  - Information is missing from our response or it is incorrect, giving opportunity for errors to occur with the Ombudsman investigation.
  - There are a small number of residents who make periodic complaint to the Ombudsman, and we do not seem to pay particular attention to their concerns.
- 3.3.3 We have identified that with staff changes there is a risk where new managers miss elements of the complaint
- 3.3.4 Managers do not always monitor a complaint matter as it becomes more serious until quite late on in the process, or that checks are made with complainants who make regular complaint
- 3.3.5 Better planning is required in relation to preparing Ombudsman responses.
- 3.3.6 As a result I have met with managers in one service to confirm they will look to allocate a senior manager to serious cases sooner, and corporately we will introduce a chase up service after two weeks to check that a timely response can be provided. The service is considering how it can embed and share learning with staff across its directorate.
- 3.3.7 We have apologised to the Ombudsman for delays where they have occurred and advised them we will be introducing a further reminder to services midway through the standard 28 day response timescale to check whether there are any difficulties with services drawing the information together, so any potential delay can be flagged up

with them sooner. I will be raising these issues with the wider management group in due course.

#### **4 Whistleblowing Procedure**

- 4.1 The nature of some of the Whistleblowing complaints received means that occasionally officers may be required to progress them through a formal external route (for example, via the Police or through a formal HR process). The Whistleblower may hold their own view on how matters should be progressed and a concern may arise through this conflict of interest.
- 4.2 At a previous Corporate Governance and Audit Committee, Members expressed some concerns that the Whistleblowing Policy should be as open as possible, so as to ensure potential Whistle-blowers are not put off from bringing forward a concern.
- 4.3 Having considered matters, the Whistleblower administrators intend to give early advice to the Whistleblower to highlight that their concerns may need to be progressed through a formal external route, so as to give as much notice of this possibility as possible. This is an internal process which does not require an amendment to the published Whistleblowing procedure.
- 4.4 The requirements of data protection are being extended through the General Data Protection Regulations (GDPR) with effect from 25 May 2018. The impact of GDPR upon the Whistleblowing Procedure is currently being considered and may have an impact on the advice about the use of data we are required to provide to potential Whistleblowers. We will continue to update CGAC as we work through the process.