

## **Corporate Governance and Audit Committee 16.11.2018**

### **1: Purpose of Report**

CGAC asked the Corporate Customer Standards Officer to return to the next meeting discuss three areas following on from the annual report presented on 7 September 2018.

- The numbers of complaints received by some services appear to have changed
- Update on The Local Government Ombudsman formal report received by the council
- Discussion on advice for members of the public on complaint matters

### **2: The numbers of complaints received by some services appear to have changed**

- 2.1 It is important to set some statistical significance to the numbers reported in the Corporate Customer Standards Report. While there is a clear value in analysing trends on the overall numbers received each year (and in comparing such numbers with those received by neighbouring similar councils) they are tiny when compared with the volumes of contacts each service receive each year.
- 2.2 When individual service numbers are considered, they are so low that a caution must be attached to such a low sample number.
- 2.3 It is also important to note the council has restructured and merged its services over the years, and the Local Government Ombudsman has also altered how it groups the complaints it receives. This makes it difficult to achieve parity both year on year, and with the Ombudsman results.
- 2.4 This year, we did alter the way we collated our figures to align more closely to the Ombudsman categories and this has resulted in some movement of cases.
- 2.5 There was a particular query over the numbers received in the category of environment and protection, where numbers increased by 13 over the year. Having viewed the actual cases it should be noted there was an increase in the number of complaints received about taxi licensing from a resident taxi driver (3 separate occasions) who used the complaints procedure in an attempt to progress his concerns rather than through licensing committee.

We also received 3 additional complaints as a result of the campaign against littering, and 3 similar but separate complaints against a particular food manufacturing business with concerns about smells wafting into a neighbouring busy work premises.

These 3 issues resulted in 9 complaints (70% of the increase) being recorded in the category, and they might be considered to be either be “one off” events, or created through increased council action not previously undertaken.

### **3: Update on Local Government Ombudsman formal report**

- 3.1 The Ombudsman formal report was published on 2 October. It led to articles in the local press, BBC Look North and The Guardian. The complainant connected the issues she had experienced at Kirklees Council with wider national issues arising from the increased requirements upon services to support special educational needs introduced by government a couple of years ago.
- 3.2 The Ombudsman requires the council to formally consider their report. Following discussion with Julie Muscroft, Service Director Legal, Governance and Commissioning, the report is being highlighted to two council committees, Cabinet on 13 December 2018 and Corporate Governance and Audit Committee (who have complaint oversight) in January 2019. The Ombudsman is comfortable with this approach.
- 3.3 An improvement plan had already been considered by Executive Team in May 2018, where an additional £0.5m was provided for the service to improve performance. Parents have been involved with the design of the service improvements.
- 3.4 The core areas of improvement includes:
  1. More timely communication between services, schools and parents to reduce delay. Rigorous supervision and training, and a new computer system to aid monitoring of progress and communication are now in place.
  2. The principles of a child and family centred approach enshrined in the Children and Families Act 2014 should be embedded through a workforce development strategy to ensure that parents and their child were fully involved in the decision making process. The Council has adopted a Restorative Approach and this complements the core principles of the Act. A bespoke programme is being designed for SENDACT.
  3. The Council is committed to the High Needs Strategic Review which is based on the outcome of extensive consultation with parents and carers, schools and settings, and other agencies. The SENDACT review is included in the action plan along with other developments noted by parents, e.g. closer multi-agency working, workforce development, the importance of transition.
- 3.5 More information will be provided to Corporate Governance and Audit Committee in January 2019.

### **4: Discussion on advice for members of the public on complaint matters**

4.1 The council already provides a considerable level of advice for residents on the website. [www.kirklees.gov.uk/complaints](http://www.kirklees.gov.uk/complaints)

This includes:

- The various complaints procedures (Adults Service, Childrens Service, Councillor Complaints, School Complaints, taxi and private hire complaints)
- Details of the Local Government Ombudsman's Service
- Detail to confirm that the complaints process is about comparing how the situation was considered with legislation, procedure and policy.
- Detail of the three stage complaints process and information about when some of these stages might be merged
- Detail about Councillor involvement in the complaints process.

4.2 In addition there is a range of policies and tools to assist with considering resident behaviours. These include the unreasonably persistent complainant policy, being recorded in public and a document about appropriate behaviours.

4.3 We have identified there are occasions where members of the public appear to personalise the complaint they have towards the individual staff member who has informed them of an unwelcome outcome. Unfortunately, the frustration about the decision can manifest itself into inappropriate behaviour against the member of staff who provided it (the saying "shoot the messenger" may be appropriate).

4.4 The proposed additional information (Appendix 1) is intended to set out that in fact on most occasions the officer is simply referring to the appropriate policy, procedure or legislation and the physical decision was not personal or individual.

4.5 While the information is available for residents to read at any time, we recognise that residents are likely to complain without having read the information. However, having it available publically as part of the suite of information provided perhaps offers a less contentious way of highlighting that the complaint is actually against the procedure and policy rather than against a particular member of staff.

4.6 As a public organisation we have to be open to enquiry and criticism, but at the same time as an employer we are required to ensure staff are protected from inappropriate behaviour. Where there is genuine complaint and we have to try to ensure the resident presents their complaint in a way where it is clear and reasonable.

4.7 There has to be a clear distinction between a genuine complaint or concern about a staff member, against a perception (rather than reality) that the staff

member has some kind of personal grievance against the member of the public because of the decision they are required to make in accordance with council policy or government legislation.

- 4.8 The suggested addition to the staff guidance emerged as a result of a staff suggestion. The wording was formulated with complaints officers across the service.
- 4.9 It is not intended as the sole statement or policy on the area of inappropriate behaviour, but it is intended as guidance for the public.

## **Appendix 1: Additional advice wording on complaints matters**

### **Complaints about council staff**

#### **Introduction**

There can be times where you might feel you need to complain about a member of staff. We all know there are times where we might feel aggrieved about how something has been dealt with, but it is important to decide whether your complaint is against council rules rather than be personally against the person giving you an unwelcome decision.

Unfortunately the council sometimes receive angry comment against our staff. While we welcome legitimate concerns about staff behaviour so we can address and learn from it, we find sometimes staff are only doing their job, and making personal comments and assumption about our staff can go beyond what can be considered reasonable.

We want to make sure our residents receive a good service but as an employer we also have a responsibility towards our staff.

If you think you might have a staff complaint, this advice guide might be useful for you to separate out what is a staff complaint and what is a complaint against the process.

#### **Should I complain about a staff member?**

Bear in mind that in the vast majority of cases officers have not made a personal judgement about the issue you have presented to the council. Their role is to base their decision on the relevant national legislation and policy that applies to the situation. Almost every decision the council makes on a day to day situation will be based on rules and policy to make sure our decisions are correct and as consistent as possible.

We expect officers to clearly explain how they have reached their decision although they sometimes have to share unwelcome news. This allows you to gain an understanding about the decision and to challenge it if you think it is wrong. Unfortunately when you are have received a decision that you think is incorrect or unfair, it can sometimes feel that an officer of the council has personally blocked what you want to see as an outcome and you may wish to complain about them personally.

However, before you complain about a member of staff, it is worth thinking about whether you actually want to complain about the council decision the officer has shared with you, or whether you want to complain about the staff member's behaviour.

## **What sort of staff complaints should I make?**

There are occasions where you can make valid criticisms of individual officers. This would most commonly be where they have:

- delayed responding to you or not responded to you at all (although if it is a discussion that seems to be going round in circles the officer has the right to close the discussion if they have told you how you may progress your concerns)
- not given you reasonable information you have asked for
- not explained the decision or situation clearly
- clearly been rude to you
- appeared to have made a mistake when comparing your situation against the policy and legislation AND this has caused you more than minor inconvenience/delay

In such circumstances you should in the first instance ask to speak with that person's manager or to formally raise a complaint to the service in writing.

You should not contact the officer directly as they are not in a position to respond to your concerns about themselves.

## **Where complaints about staff is not appropriate.**

Unfortunately there are occasions where complaints about individual staff are not appropriate. The council is obliged to support the staff member if the complaint is unfair or unreasonably presented.

Likewise a complaint against a staff member is not valid where it is clear the staff member has simply interpreted the policy and legislation correctly, even when you are not satisfied with the outcome. This is a complaint against the decision that has been made, and it should be tackled by explaining why you feel the decision is incorrect (either some relevant information has not been provided or considered, or if you feel the policy or legislation has wrongly been interpreted).

Inappropriate behaviour towards staff can include:

- Emailing a number of managers and/or elected representatives to criticise or question an officer's decision – this could be considered to be an attempt to undermine, belittle or bully the individual officer. You should simply contact the individual's line manager.
- Making unsubstantiated accusations against an officer suggesting perhaps they are unable to perform their job, or that they have taken some kind of bribe.
- Contacting the officer direct to criticise them – they cannot respond to a complaint against themselves.
- Contacting the officer direct to set out the impact of their decision upon you – this could be seen as an attempt to make officers feel guilty about a decision they are required to make.

- Making vague or explicit threats towards officers
- Threatening officers direct with legal action, referral to their professional bodies, or to their managers.
- Making negative comments about named officers on social media
- Making negative comments to officers about their decision while they are in their private capacity, in person or on social media

This type of behaviour can only detract from any valid argument you might be able to present. The council like other employers will seek to protect their staff.

Behaviour of this nature may in extreme circumstances lead to a restriction on your contact with the council which could give you considerable inconvenience. In extreme and persistent circumstances legal action could be instigated against you.

**Tip:** It can sometimes help to write down what you want to say and feel in an email but then don't send it immediately. You can later review the information to make it more factually correct and less emotive.

If you need advice about how to present your complaint and who it should be presented to, you can contact the Corporate Customer Standards Service at [customer.standards@kirklees.gov.uk](mailto:customer.standards@kirklees.gov.uk) or on 01484 221000 (ask for Corporate Customer Standards).