

Name of meeting: Corporate Governance and Audit Committee

Date: 13 September 2019

Title of report: Corporate Customer Standards Annual Report

Purpose of report: To update Corporate Governance and Audit on complaint handling for the year 2018-19, a review of the Ombudsman and Third Stage Complaints received. The document also contains details of the Whistleblowing Complaints that have been received.

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?	No
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	No
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name	Julie Muscroft 03/09/2019
Is it also signed off by the Service Director for Finance IT and Transactional Services?	N/A
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	N/A
Cabinet member portfolio	Cllr Graham Turner

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Has GDPR been considered?: Yes

1. Summary

To update Corporate Governance and Audit Committee about complaint performance during the previous financial year. We also consider an interim complaints report halfway through the year.

The report is informed by the Local Government Ombudsman Annual Report which is published early in July, and also incorporates information about third stage complaints handling, some key examples of learning and a summary of the Whistleblowing concerns that have been received.

2. Information required to take a decision

Contained within the report

3. Implications for the Council

- **Working with People**

Restorative approach to complaints handling being considered for the future.

- **Working with Partners**

N/A

- **Place Based Working**

N/A

- **Improving outcomes for children**

N/A

- **Other (eg Legal/Financial or Human Resources)**

Complaints process required as part of the complaints process described in the Local Government Act 1974.

4. Consultees and their opinions

N/A

5. Next steps and timelines

For Corporate Governance and Audit Committee to consider the content of the report, and to advise if they would like any additional areas for the next interim report.

Currently scheduled for January 2020:

Update on cases received April – Oct 2019
Update on learning from complaints.

6. Officer recommendations and reasons

To note and accept the report.

7. Cabinet Portfolio Holder's recommendations

N/A

8. Contact officer

Chris Read, Corporate Customer Standards Officer, chris.read@kirklees.gov.uk
01484 221000

9. Background Papers and History of Decisions

N/A

10. Service Director responsible

Eamonn Croston

Corporate Customer Standards Annual Report 2018-19

1: Purpose of report

To update Corporate Governance and Audit Committee about complaint performance during the previous financial year. We also consider an interim complaints report halfway through the year.

The report is informed by the Local Government Ombudsman Annual Report which is published early in July, and also incorporates information about third stage complaints handling, some key examples of learning and a summary of the Whistleblowing concerns that have been received.

2: Background processes

Appendix 1 contains details of the council's complaint processes.

3: Complaint Statistics – how is Kirklees performing?

Ombudsman Formal Report

The ultimate sanction that the Local Government Ombudsman can apply is to issue a formal report against a council. These are usually issued where a matter is very serious and the council clearly has a number of process issues to consider and resolve, where there is a public interest in matters and learning can be shared with other councils, or where the council clearly has not reflected or changed its procedures after issues had been highlighted in the past.

In 2018-19, there was one formal report issued against Kirklees Council. This was reported upon to Cabinet on 11th December 2018 and was considered by CGAC at the committee meeting on 25 January 2019. The case related to Special Educational Needs at a time when the service recognised additional support for families and the new legislation was needed. Since the time of the situation described in the formal report, the council has agreed additional funding of around £500,000 for the service.

Ombudsman Upheld Complaints

There were 13 upheld complaints by the Ombudsman (2017/18: 13 cases). Details of the upheld complaints are provided in [Appendix 2](#) with the summary of the case provided by the Ombudsman. Those in red were reported upon in the interim report to CGAC on 25 January.

Complaint Volumes

[Appendix 3](#) contains historical comparison data regarding the number of complaints received both at third stage and at Ombudsman.

These indicate that the number of third stage complaints and Ombudsman complaints received have been at a broadly consistent level over recent years and during the year 2018-19 numbers are broadly similar to previous years.

There are some factors which have impacted upon the numbers of complaints this year:

- Special Educational Needs – the service acknowledged delays in assessments, and some delays in agreed support being put into place. This increased the number of complaints received, and has been addressed through extra investment in the service which will allow more timely assessments, and monitoring and chase up of agreed support for families.
- Environment and public protection – there was a small increase in the number of third stage and ombudsman complaints about waste collection, following on from the strike of last summer, and complaints about littering fines, and a small number of individuals making a number of different complaints about taxi licensing issues were also received. Contact has been made with senior managers to develop an approach to complaints resulting from service change, and a review of taxi licensing processes is being undertaken to improve consistency of procedure.
- Planning – in common with previous years, we have received multiple complaint about a small number of developments, which make the numbers higher than the actual number of developments being complained about. It also has to be remembered that it is sometimes the development itself that is being complained about (rather than how the planning service has considered the incoming application).
- Adults – most adult service complaints do not pass through the third stage of the complaints process, but the service has worked with the corporate complaints team and have undertaken considerable work on developing procedures and policy to ensure there is a greater expectation and clarity around the service offer.

The corporate customer standards section have been involved with over 700 cases in the year in total. Additional work undertaken by the department includes giving advice about complaints handling, looking at resolving complaints, co-ordinating replies between services and ensuring complaint responses are collated. The numbers considered by the section has increased considerably over recent years, and perhaps assists with ensuring that third stage and Ombudsman complaints have not increased.

The proportion of Kirklees residents in West Yorkshire is approximately 19% of the population whereas the proportion of West Yorkshire complaints are below or around this percentage.

A strong caveat around making simple assumptions about numbers of complaints received must be stated. There are a number of factors that can impact upon complaint numbers received. These include:

- The overall numbers involved is but a very small percentage of the overall resident contacts that the council receives. A small change in the number of complaints recorded can alter the picture considerably.

- Some complaints are not recorded as such because there is a formal appeals process for that particular situation, and some resident concerns are classed as requests for service. We try to mitigate against this by being consistent, using a broad definition of what a complaint is.
- Changes in procedures can impact upon complaints received (for example the introduction of proactive littering charges, waste tip permits, increased economic activity might be expected to increase complaint volumes).
- A low expectation on outcomes, staff hiding the complaints process, and delay might contribute to depressing complaint numbers.

We try to mitigate against some of these issues through:

- Taking complaints seriously and ensuring responses clearly set out what the decision was and why it was made.
- Always publicising the complaints process by highlighting the next stage that the resident can take
- Ensuring we recognise the positive value of independent review of the Ombudsman and co-operating with the Ombudsman and encouraging a learning culture from complaint handling.

Another helpful measure to identify whether complaint handling makes a difference to the complainant is to measure the proportion of upheld complaints. Again, in Kirklees the position is slightly better than average.

This year, the Local Government Ombudsman determined that of the cases where they undertook a detailed investigation that 61% of the cases from comparable local authorities were upheld. Kirklees Council performed slightly better than average at 54%.

5: Changing focus

A number of potential areas for expansion and development have been identified. Discussion has been ongoing with directors to ensure learning from complaint handling is maximised and complainant satisfaction with complaint handling is improved.

Areas for consideration include:

- Ensuring more complaint and whistleblowing cases are dealt with in a timely way (there are peaks and troughs of work).
- Working with services to improve their complaints handling capacity (there has been considerable level of joint working with Adult Service Managers, which has a positive impact on the number and detail in the response of the complaints received, and the work has informed policy review).
- Considering and rolling out how restorative work practice could assist with complaint handling with the potential outcome of some residents better able to understand and accept the way we have handled their situation. This would involve offering more face to face meetings with complainants.

- Improving service change with a view to anticipating the complaints received, seeing whether processes can be improved to mitigate against the risk of complaint, and where unavoidable; being better prepared to respond to them
- Refresh existing complaints and whistleblowing policy and guidance documents and a greater input into other procedures across the council in future
- Sharing good practice in complaints handling
- Considering unconscious bias and how that impacts upon the customer journey and complaint volumes
- Undertaking more work to co-ordinate stats and monitoring of service complaints (perhaps including second stage in the complaints process).
- Improving resilience and succession planning

Discussions are ongoing about how this additional work might be achieved.

At the interim report for CGAC, I will provide more information on learning from complaints.

7: Whistleblowing Concerns

The Head of Risk and the Corporate Customer Standards Officer co-ordinate investigations for those cases directly reported to the Whistleblowing telephone line and email address. Other investigations may take place through issues reported to the HR section or direct to the Audit section.

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.

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 2018-19, 21 Whistleblowing referrals were received via either the Whistleblowing e-mail address (www.whistleblowing@kirklees.gov.uk) or telephone (01484 225030). 2 were duplicated.

The whistleblowing reports received and how they were dealt with can be found in **Appendix 4**.

Appendix 1

Recap of the Council's Complaints Procedure

The council's complaint process for 2018-19 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.

Appendix 2: Summary of the cases upheld by the Ombudsman 2018-19

* Cases in italics have already been reported to CGAC at the last interim report in January 2019

Case Ref	Area	Omb Decision
17 003 706	<i>Adoption</i>	<i>Mrs B complains the Council was at fault in the way it dealt with the placement of a baby with her and her husband, and about how it dealt with her complaint. Some faults were accepted by the Council following investigation under the statutory complaints procedure. The Ombudsman's investigation identified some further faults. The Council has agreed to a recommendation for remedy in the form of apology and a payment in recognition of distress, inconvenience and time and trouble.</i>
17 009 782	Homeless	Summary: Mr X complains the Council provided him with unsuitable accommodation following his homelessness application and denied him a right of review. The Council also delayed in carrying out repairs to a property it offered him and failed to record an offer to 'un-match' his bid. The Ombudsman found fault because the Council denied Mr X an opportunity to request a review of the suitability of his temporary accommodation. And to be 'un-matched' from an offer of secure accommodation causing uncertainty and distress. The Council has accepted it was at fault. It will apologise to Mr X and pay him £200. It accepts the Ombudsman's recommendations to carry out service improvements.
16 016 545	Assessment and care plan	Mr and Mrs C complained about the Council's delay in providing the support they needed. The Ombudsman has found some fault and has completed his investigation as he is satisfied with the actions the Council has agreed to take.
17 000 159	<i>Special Educational Needs</i>	<i>The Council took a year too long to issue an EHC Plan for Mrs X's son, Y. It also failed to make some of the provision ordered by the subsequent SEND Tribunal for up to a further year. It will apologise to Mrs X, pay her £2050 and review its practice in adhering to timescales for issuing EHC Plans.</i>
17 015 517	<i>Direct Payments</i>	<i>Mr X complains that the Council would not include the cost of travel, entrance fees, or massage, to meet eligible needs, in his personal budget. The Ombudsman finds the Council was at fault and caused Mr X distress. It will consider how much meeting his needs will cost, and what other related expenses Mr X has to pay. It will also consider</i>

		<i>whether this caused Mr X an injustice and offer a suitable remedy if so.</i>
17 011 713	Assessment and Care Plan	Mr B complains about the Council's decision not to let him use his Direct Payment on respite care for his wife to enable him to pursue his walking hobby. The Council is entitled to set the conditions of use for the Direct Payment. But it should not have reduced the payment from £1,500 in 2016/17 to £1,110 for 2017/18, when Mr B had used it as set out in the Carer-led Review. The Council has agreed to the Ombudsman's recommendation that it make available a Direct Payment of £1,500 for 2017/18, provided that Mr B agrees to use this in accordance with the conditions. It will also undertake a further Carer-led Review and financial assessment should Mr B wish.
17 015 766	Refuse & Recycling	<i>The Council was at fault when it missed bin collections in line with its assisted collection service for disabled service users. The Council's £100 remedy was appropriate for the complainant, Mr Z's out of pocket expenses. The Council failed to inform Mr Z about its policy for vacant properties. It failed to pay him the agreed remedy. The Council will remedy Mr Z's further injustice by paying him an extra £100.</i>
18 001 583	Assessment & care plan	The Council failed to act in accordance with the Care Act in reviewing Mr Y's care needs. It reduced his personal budget without a reassessment of his needs, and failed to take account of the impact on his wellbeing. It also fettered its discretion in refusing to provide domestic support, even though Mr Y had an assessed eligible need for such support.
17 009 464	Children's Services	The complainant says the Council failed to alert him to allegations of possible harm to his son. He found out about the allegations many years later. The complainant believes the Council may not have protected his son adequately. The Council recognises it should have alerted the complainant to the allegations but says it has assessed and provided services to the family to ensure his son is protected. The Ombudsman finds fault by the Council in failing to involve Mr Y at an earlier stage and recommended a remedy for the injustice this caused him.
17 019 805	Special Educational Needs	<i>FORMAL REPORT: Mrs X complains the Council failed to provide all the support specified in her son's Statement of Educational Need.</i>
18 007 453	Licensing	Mr X complained the Council's appointment system

		for taxi drivers did not cater for urgent matters and consequently affected the livelihoods of the taxi drivers. There was fault by the Council and it made service improvements. The Council has agreed to pay Mr X £100 to remedy the injustice caused to him.
18 008 304	Direct Payments	The Council is at fault in that it failed to reimburse Mrs X the costs associated with a week's respite stay for her adult son. This caused Mrs X stress, uncertainty and left her with a debt. The Council acknowledged its failings and proposed a satisfactory remedy.
17 014 118	Disabled Facilities Grant	The Council explained to Mrs P that the initial indication of her contribution to the Disabled Facilities Grant might change. When Mrs P complained that the delay had increased her contribution because of her new pension, it offered a payment in recognition. That is sufficient to remedy any injustice.

Appendix 3

Historical comparison data regarding the number of complaints received both at third stage and at Ombudsman:

Third Stage Complaints

Service	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Adults	3	2	3	1	4	2
Benefits, C Tax & NNDR	19	16	16	16	14	6
Corporate and others	18	21	19	15	10	6
Children's and Education	5	5	4	5	5	11
Environment & Public Protection	11	10	15	16	29	31
Highways and Transport	12	12	6	11	3	8
Housing (including KNH)	8	5	5	2	2	4
Planning	17	15	18	19	15	20
Total	93	86	86	85	82	88
% upheld and Part Upheld	17.2%	20.9%	20.9%	21%	20.7%	22.7%

Number of complaints received by the Local Government Ombudsman

Service	Kirklees Numbers 2015-16	Kirklees Numbers 2016-17	Kirklees Numbers 2017-18	Kirklees Numbers 2018-19
Adults	19	23	19	16
Benefits, C Tax & NNDR	13	6	6	7
Corporate and others	13	2	6	2
Children's and Education	18	22	27	18
Environment & Public Protection	8	13	13	18
Highways and Transport	6	4	4	7
Housing (including KNH)	3	6	5	7
Planning	13	17	10	14
TOTAL	93	93	90	89

Appendix 3 cont

Ombudsman Complaints formally investigated - West Yorkshire Comparisons

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):

Analysis - West Yorkshire

Council	Total reviewed by Omb	Number Upheld by Omb	% investigated upheld by Omb	Compliance with Omb Decisions	Council had provided satisfactory remedy before review
Kirklees	24	13	54%	92%	15%
Wakefield	14	6	43%	100%	0%
Bradford	17	10	59%	100%	20%
Leeds	47	21	45%	100%	0%
Calderdale	19	9	47%	100%	0%
Omb Comparison	N/A	N/A	61%	99%	14%
Kirklees Proportion	19.8%	22%	N/A	N/A	N/A

Appendix 4: Summary of Whistleblowing Cases received

Cases with a star indicate that the whistleblower was a council employee, and was thus making a Whistleblowing concern in accordance with the legislation. For administrative ease, we investigate concerns raised by members of the public in a similar way.

Concern	Outcome
* Complaint about practices in a care home	Connected to HR issue and considered through that process.
Allegation that a staff member had abused their position by making false claims against the resident to the Police.	No individual of that name identified – in any case the nature of allegation could be raised by any member of the public
Claim that a council man in a council van had collected an envelope from a land owner. Whistleblower assumed it was money. No evidence (registration number for vehicle for example) provided.	The person involved with the case was a woman who did not use a council van. Their work was scrutinised; no irregularities identified. No evidence to confirm who the council staff member might have been (or indeed that the incident described occurred), could not check transport records. Individual was asked to provide more information – did not do so.
* Staff member raised concerns about working practices in their area, which they felt to be inefficient.	Senior managers reviewed the systems being criticised – it transpired considerable changes and review of processes had taken place to recognise considerable changes in legislation and policy. It was recognised that substantial change always takes time, but service delivery had now improved considerably, and new IT development was improving the outcome for residents, although staff roles had altered.
* Various allegations about inappropriate recruitment were made about a service.	The allegations were shown to be without foundation in that full recruitment processes had taken place, and some information about individuals were factually incorrect. The service has undergone considerable change over recent years. The allegation was anonymous, so we were unable to ask for more information.
Complaint about a member of staff who apparently takes a long lunch.	It is possible that employee had simply taken an unpaid break. The service manager discussed the concern with the employee and it was recognised there are rare occasions where there may be a lull in the

	<p>workload.</p> <p>The individual also receives a lot of praise for going “above and beyond” in their duties.</p> <p>No further comment or complaint has been received.</p>
* Complaint about management at a school.	Connected to a disciplinary matter at the school. Advice given to the school.
* Concern about comments made by senior manager at a public meeting, and whether the comments suggested they had breached council procedure.	<p>Discussed with individuals line manager, it was determined there was a misunderstanding about interpreting policy (the manager was new to the council) which was clarified.</p> <p>No transactions or cases were involved.</p>
Allegations made against a private social housing provider.	Individuals and businesses do not appear to have any connection or contracts with Kirklees. Letter was anonymous so no further info or clarification could be obtained.
* Complaint received about standard of dress of a colleague, and they sometimes appeared to be under the influence of cannabis.	Passed to Senior Manager – confirmed no specific dress code in place, and officer did not at any time appear to be intoxicated.
Concerns about contractual issues since a School converted to be an Academy	Appeared to be an HR issue and not a matter the council could become involved with. Information shared with the School (anonymised)
Complaint about a private care home – very limited information and anonymous	Passed to our Adult Care service for their information.
* Allegation that a manager was in a secret relationship with staff member, meaning the management relationship was compromised.	<p>Offered to meet to discuss with WB but this was turned down.</p> <p>Staff Members confirmed they had nothing to declare.</p>
Anonymous concern that scrap was being sold privately.	Amounts of scrap being sold was investigated and a need to tighten up the recording process was identified, but there was no evidence to substantiate the concern.
Staff member posted inappropriate content on social media while also identifying themselves as an employee of the council.	Service progressed this matter formally through HR processes.
* Anonymous team member expressed a number of serious concerns about recruitment, how staff suggestions are	Senior Manager checked recruitment process and determined it had been conducted appropriately, but also produced program of works to ensure all staff are more involved with

progressed, and issues with everyday working.	decision making and office processes so they feel more involved with the workings in the office.
Two council employees overheard in public space making inappropriate comments and jokes.	Passed to the service to try to identify individuals involved – one of the vehicle registration numbers identified and passed to the whistleblowing line was not in the vicinity at the time.
Concern about the recruitment process for a senior staff member of a school, and questioned various recruitments.	Confirmed there had been a number of different personal involved in the recruitment process and the comments raised could not be validated. Concerns had been raised anonymously so could not be discussed further.
Unsubstantiated and anonymous concerns about a team of staff alleged to be working fewer hours to that declared.	Passed to a Strategic Director who has been involved in a review of the service, where working hours has been reviewed in detail. There did not appear to be substance to the complaint and working practices were in the process of being reviewed.