

## COMPLAINT HANDLING

### PERFORMANCE AND GOVERNANCE COMMITTEE – 27 SEPTEMBER 2011

Report of the: Corporate Resources Director

Status: For Information and Consideration

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**This report supports the Key Aim of:** Effective Management of Council Resources

**Portfolio Holder** Cllr. Ramsay

**Head of Service** Head of Legal and Democratic Services and Monitoring Officer

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**Recommendation:** It be RESOLVED that the report be noted.

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#### Background

- 1 The Council's formal complaints procedure enables customers to seek assistance where they are unhappy with Council services. The complaints procedure has three stages as shown below:

<b>Stage 1:</b> Service department	Complaint to be investigated by the Service Manager within 15 working days and reply to be signed by the Head of Service.
<b>Stage 2:</b> Chief Executive review	Complaint will be investigated by a Head of Service (independent to the service being complained about) within 20 working days and reply to be signed by the Director on behalf of the Chief Executive
<b>Ombudsman Complaint</b>	If still not satisfied, the complainant can refer the complaint to the Local Government Ombudsman, who then considers the complaint. The Chief Executive will be the contact with the Ombudsman.

- 2 Following a comment by a Member at the Performance and Governance Committee held on the 28<sup>th</sup> June 2011 the Corporate Resources Director agreed to review, in consultation with the Head of Legal and Democratic Services the issue of complaints being forwarded to Members and to bring a

response back to a future meeting of the Performance and Governance Committee. This report provides further background to the issue and the outcome of the review.

## History

- 3 The Customer Services Manager first looked into this matter in February of this year at a meeting of Performance and Governance, following inquiries from some Councillors to be involved in the Council's Complaints procedure from the time the initial complaint is received or even before a complaint is received if officers are able to anticipate a likely complaint and to assist in the resolution of the complaint. The Customer Services Manager met with the Members concerned. A meeting was held in March 2011, with follow-up email communication between the interested parties.
- 4 The Customer Services Manager sought legal advice which is attached at Appendix A. In essence the advice was that the complainant's consent was required before any disclosure could be made.
- 5 In recognition of this advice and in an effort to assist further, a number of improvements to the process were made:
  - a. The Council Formal Complaints procedure offers in its standard reply to customers that the complaint can be copied to local members, subject to the complainant providing permission. This was introduced to all acknowledgement letters from July 2006 for Stage 2 complaints and extended to all levels of the complaints process in February 2007.
  - b. Part of the legal advice received in May 2011 was for the wording on the standard acknowledgement to be slightly altered and this was implemented from June 2011 as set out at Appendix A.
  - c. Following on from this the Customer Services Manager agreed to advise all Managers that if they identify developing widespread issues which may have an impact on service to residents, they should use business judgement to decide whether to contact Member(s) in the affected areas. However, to do the same for specific service issues raised by individual named customers would not be in accordance with Data Protection principles and as such could not be considered.
- 6 It would seem that no one is doubting the robustness of the Council's procedures although it has been suggested that the position as set out above would only apply if the complaint was about a Councillor and that Councillors could assist officers and/or the complainant even potential complainants at a much earlier stage in the process.

## Monitoring Officer Advice

- 7 It is appreciated and commendable that Members may want to get involved in helping officers in relation to the operational workings of the Council's Complaints Process. However, Data Protection principles still apply to Members' involvement in a complaint process whether or not the complaint

relates to an actual Member and it would be wrong to pass on the details of a complaint to an individual Member without first obtaining the complainant's consent.

- 8 The Monitoring Officer is charged with the duty under statute to alert Councillors via full Council of risk of illegality or impropriety. Beyond this there is no statutory power to involve individual Councillors at an operational level in the involvement of a Council's internal complaints' procedure, without authority from the complainant.
- 9 In formulating this advice reference is made to the recent guidance provided by the Centre for Public Scrutiny entitled "Aiming for the best" which demonstrates how Councils can use lessons from complaints to improve public services. The Customer Services Manager is aware of this guidance and there is confidence that our procedures are fully compliant with the best practices set out within such guidance document. The Performance and Governance Committee each year receives a report entitled "Formal Customer Complaints Monitoring" which provides details of formal complaints received by the Council during the period 1<sup>st</sup> April to 31<sup>st</sup> March. It includes information from the Local Government Ombudsman's (LGO) annual letter. Complaints data is viewed by the Council as providing a useful tool to highlight specific concerns, assist in the identification of trends and act as a guide to which remedial action may be required.
- 10 The focus over the coming year is to continue improvements in monitoring of complaints and to ensure that lessons are identified and implemented. Attention will be directed to encourage and further develop the lessons learnt culture which has been introduced, and to create opportunities to share information across service areas ensuring and resulting in service improvement across the Authority.
- 11 The Council has gone as far as it can within the Council's Complaint's Procedure whereby the relevant Member is informed of a complaint on the basis that permission has been given by the Complainant. In addition, the Customer Services Manager has formulated an additional requirement whereby he will advise all Managers that if they identify developing widespread issues which may have an impact on service to residents, they should use business judgement to decide whether to contact Member(s) in the affected areas. This could also cover the situation before a complaint is received and this provision could be formally incorporated into the Complaint's Procedure. The Customer Services Manager has briefed this information to the Community and Planning Services Department Management Meeting and to the Finance and Human Resources Department Management Meeting during July 2011.

### **Key Implications:**

#### Financial

- 12 There are no immediate financial risks associated with this report.

Community Impact and Outcomes

- 13 The complaints process is designed to be used to feedback any issues arising to Services Manager to drive forward continuous service improvement in line with Best Value requirements.

Legal, Human Rights etc.

- 14 The complaints process meets all legal requirements and recognises Human Rights and is fully compliant with Data Protection principals.

**Conclusion:**

- 15 The Council's Formal Complaints process has been reviewed and shown to provide for Member involvement within the limitations of the Data Protection legislation. The standard acknowledgement letter has been further refined to clarify and improve the customer process, and Management teams across the Council have been reminded to be alert to using business judgement to ensuring local Members are contacted where widespread issues affecting local residents are identified.

**Risk Assessment Statement**

- 16 The Council's complaints procedure does help the Council provide learning across the whole organisation which drives service improvement . Lessons are learnt from individual complaints, either for individual services or for the Council as a whole. However, this has to be done with sensitivity, respecting the privacy and confidentiality of the individual involved. Without such safe guards in place a serious breach of Data Protection could occur.

**Background Papers:**

Complaints Procedure

Internal emails on this subject between Officers and Member

Formal Customer Complaints Monitoring Report 2009/10

Aiming for the best – using lessons Complaints to improve public services – Centre for Public Scrutiny

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