



Proposed Revision of the Corporate Complaints Procedure

RECOMMENDATION

1. To approve the proposed amendment to the Corporate Complaints Procedure needed to address:
 - a) the forthcoming changes to the way in the Local Government Ombudsman deals with complaints.
 - b) the facility that will be offered by the Councillor Call for Action (Section 119 of the Local Government and Public Involvement in Health Act 2007) for responding to a series of complaints which demonstrate a 'systemic failure' in a particular service area.

SUPPORTING INFORMATION

- 2.1 The July 2008 issue of 'LGO Link', the newsletter of the Local Government Ombudsman (LGO), summarised the outcome of the service review that the LGO had carried out in response to a budget cut of 15% over the next three years.
- 2.2 One of the outcomes of the review was a decision that, from April 2009, the LGO would only accept complaints that have been through all stages of a council's complaints procedure. However in the November 2008 issue of the LGO newsletter it was reported that the proposal had been amended and that the following categories of complaints would be considered as exceptions to the 'all stages' requirement:
 1. Complaints about education (except transport)
 2. Complaints about homelessness
 3. Complaints by or on behalf of children or young people
 4. Complaints against more than one body
 5. Complaints where the Council's chief executive has exercised discretion not to investigate further
 6. Complaints where the LGO has exercised discretion to accept a complaint because he/she has good reason to believe the Council would not handle it effectively
 7. Where there has been unreasonable delay by the Council in processing a complaint

8. Where the LGO decides it is appropriate to check on progress with a 'premature' complaint
- 2.3 The City Council's Corporate Complaints Procedure is used to investigate 'formal' complaints. These are complaints which are defined as: 'Any expression of dissatisfaction with a specific service or services provided by the Council, which has been previously raised with the Council and not resolved to the satisfaction of the complainant'. A copy of the Corporate Complaints Procedure is contained in Appendix 1.
- 2.4 The current Corporate Complaints Procedure which was last revised in July 2006, comprises the following three stages:
- Stage 1 - An initial investigation by the department involved in providing the service.
- Stage 2 - A review of the Stage 1 investigation by the Chief Executive or his/her nominated representative – this is offered if the complainant is not satisfied with the outcome of the Stage 1 investigation.
- Stage 3 – If the complainant is not satisfied with the outcome of the Stage 2 investigation the complaint may, at the discretion of the Chief Executive, be referred to the Standards Committee.
- 2.5 The current Corporate Complaints Procedure has worked well but to avoid any future confusion it is considered it will now be necessary to revise the procedure. The revision will need to include in it reference to the exceptions listed in 2.2 above and should make it clear the situations under which the Council's Chief Executive has discretion to decide not to investigate further.
- 2.6 It is also thought that the changes proposed by the LGO may result in the Council's Complaints team having to undertake more Stage 2 reviews. Historical complaints data suggests that each quarter about 10 of the 25 Stage 1 complaints received by the Corporate Complaints team have been referred to and have been investigated by the LGO. It is difficult at this stage to determine how many more Stage 2 investigations the Complaints team will need to undertake, but it is thought it will be necessary to make some adjustments within the Complaints Team to accommodate the anticipated increase in Stage 2 complaints. The note contained in Appendix 2 provides more detailed information on what is proposed.
- 2.7 It is not expected that as a consequence of the LGO's decision the Standards Committee will receive any more Stage 3 complaint because the Chief Executive will still have the discretion to decide whether or not a complaint should be referred for Stage 3 investigation.

- 2.8 Section 119 of the Local Government and Public Involvement in Health Act 2007 provides elected members of a local authority with an opportunity through a 'Councillor Call for Action' (CCfA) to ask for discussions at a Scrutiny Commission on issues where local problems have arisen and where other methods of resolution have been exhausted.
- 2.9 The Regulations that apply to CCfA specifically exclude complaints by individuals about an aspect of a Council service that they have received. However the guidance makes it clear that CCfA would apply where it is considered that a series of complaints demonstrate a 'systemic failure' in a particular service area and where it is felt that consideration by scrutiny can add to a discussion of that failure.
- 2.10 It is considered that the revised Corporate Complaints Procedure should reflect the facility offered in certain circumstances by CCfA.

For more information contact:	David Romaine 01332 255598 e-mail david.romaine@derby.gov.uk
Background papers:	Appendix 1 – Implications
List of appendices:	Appendix 2 – The current Corporate Complaints Procedure
	Appendix 3 – Response to the changes to the way in which the LGO deals with complaints.

Appendix 1

IMPLICATIONS

Financial

1. None arising from this report.

Legal

2. None arising from this report.

Personnel

3. None arising from this report. The changes to the working pattern of the Corporate Complaints team can be accommodated using existing staff.

Equalities impact

4. An effective Complaints Procedure is of potential benefit to all Derby people.

Corporate Objectives

5. This report has the potential to link with all the Council's Corporate Objectives.

Standards Com rep

Revised Corporate Complaints Procedure

July 2006

Index

	Section	page
	Introduction	3
	The Role of the Corporate Complaints Officer	3
	The Aims and Scope of the Complaints Procedure	4
	Aims	4
	Definitions	4
	The Scope of the Complaints Procedure	5
	Recording and Monitoring Complaints	6
	Contracted-out Services	6
	The Complaints Procedure	6
	Using the Procedure	6
	Complaints involving harassment or discrimination	9
	Complaints about Councillors	10
	Referrals to the Local Government Ombudsman	10
	Complaints against employees	11
	The Role of the Monitoring Officer	11
	The use of Advocates	11
	The Remedy and Compensation Policy	13
	Aims and Objectives	13
	Remedy	13
	Compensation	13
	Remedy and Compensation Policy Guidance	14
	Upholding or partially upholding a complaint	14
	Remedy	14
	Compensation	15
	Good Practice Guidance and Advice for Investigating Officers	17
	Reasonable adjustments and Access Requirements	17
	Planning the investigation	17
	Conducting the investigation	17
	Assessing the Outcomes	19
	Replying to the Complainant	19
	Administration	20
	Appendix 1 - Policy for dealing with Unacceptable Behaviour and habitual or Vexatious Complainants	21
	Introduction	21
	Aims	21
	Definition of Unacceptable Behaviour and Habitual or Vexations Complainants	21
	Response to Unacceptable Behaviour and Habitual or Vexations Complainants	22
	Appendix 2 – Complaint Assessment Sheet	23
	Appendix 3 – Customer Service Standards	24

INTRODUCTION

1. This Complaints Procedure is provided as part of the Council's overall commitment to service improvement and good customer service. The Complaints Procedure supports the Council's Customer Services Standards which are set out in Appendix 3.
2. Complaint forms that explain the procedure and can be used to make a complaint are available from the main reception at the Council House and at Roman House and departmental reception offices. Formal complaints can also be made by telephone, fax, minicom or e-mail.
3. The complaint form includes contact details for the Corporate Complaints Officer, who will be the first point of contact for most complainants.
4. The Council will try to resolve most complaints informally and to the satisfaction of the complainant at the time that the complaint is first raised. However, if the customer is not satisfied, the complaint can be fully investigated using this procedure.
5. The complaints procedure does not prejudice the customer's right to refer a complaint to the Local Government Ombudsman if at any stage if they feel that the Council is guilty of maladministration.

THE ROLE OF THE CORPORATE COMPLAINTS OFFICER

6. The Council has appointed a Corporate Complaints Officer to manage the complaints procedure. Their role is explained in detail in this section.
7. The Complaints Officer will oversee the complaints procedure to make sure that it operates effectively and achieves its aims. This includes preparing statistical information, monitoring and reporting on individual complaints, and taking action if relevant targets are not being met.
8. The Complaints Officer is responsible for maintaining the quality of the service and may conduct periodic spot checks by contacting previous complainants for their comments on the procedure and the way the complaint was dealt with.
9. The Complaints Officer will normally be the nominated Investigating Officer for the Chief Executive for all complaints investigated under Stage Two of the complaints procedure.
10. The Complaints Officer will also:
 - Keep a record of all complaints received through the formal procedure and of the Council's responses to those complaints

- Provide case files for complaints that have been referred to the Standards Committee,
 - Liaise with the Local Government Ombudsman's office on any complaints about Council services that they are investigating.
11. The Complaints Officer will provide a first point of contact for employees with any queries about the complaints procedure. He/she will also be available to discuss complaints informally with customers and will, whenever possible, try to resolve these without the need for a formal investigation

AIMS AND SCOPE OF THE PROCEDURE

Aims

12. The aims of the Complaints Procedure are to make sure that:
- It is as simple and straightforward as possible for customers to make complaints about Council services
 - The customer feels that their complaint has been properly investigated, even if the outcome does not uphold their complaint
 - The customer is kept informed of the progress of their complaint and is told who is dealing with it
 - The Council responds to complaints within a reasonable time and in a courteous and efficient manner
 - The customer is told how to take the complaint further if they are not satisfied with the outcome of the investigation
 - The Council learns from complaints and where appropriate, takes action to improve the quality of its services.

Definitions

13. A 'complaint' has for the purpose of this procedure been defined as:
- 'Any expression of dissatisfaction with a specific service or services provided by the Council, which has been previously raised with the Council and not resolved to the satisfaction of the complainant.'**
14. Customer comments, requests for service, or reports of problems are not considered to be complaints and should not be recorded as such.
15. The procedure assumes that the Council will be given a reasonable opportunity to put things right before a customer's complaint is recorded as a complaint under this procedure.
16. The definition of a complaint excludes the types of complaint listed in paragraph 18 of this procedure.

Scope of the Complaints Procedure

17. The Corporate Complaints Procedure is intended to cover issues such as:

- A failure to provide a service at the level or standard expected by the Council
- The unhelpful attitude of a Council employee
- Neglect, or delay in answering a query or responding to a request for service
- A failure to follow the Council's agreed policies, rules or procedures
- A failure to consider all relevant information in coming to a decision
- A failure to tell people of their rights
- Malice, bias or unfair discrimination, in particular discrimination or harassment on the grounds of age, disability, gender, gender identity, race, religion or sexuality (but see paragraph 19 and paragraphs 47-49 of this procedure).

18. The Complaints Procedure does not cover certain types of complaints and these are:

- Complaints that amount to a disagreement with the Council about its decisions or policies rather than the way the decisions have been made or policies arrived at, for example the level of Council Tax or the Free School Transport Policy
- A planning or development control matter where a right of objection exists, unless the complaint is about the way the matter has been administered
- A Council decision involving the use of regulatory powers, for example licences or certain environmental health functions, or when the decision is governed by other regulations such as benefit assessments or Council Tax recovery, unless the complaint is about how the matter has been administered
- A complaint that is, or could reasonably be expected to be, the subject of court or tribunal proceedings
- Complaints that amount to a disagreement with, or refusal to accept, a rule of law which the Council is applying
- Complaints about action taken in relation to dismissals, pay, discipline, superannuation or other personnel matters, including recruitment complaints which have a separate procedure.
- Complaints alleging racial or other harassment of Council tenants
- Complaints about the conduct of Councillors
- Complaints about issues covered by the Data Protection Act 1998 or the Freedom of Information Act 2000 as there are other procedures for such complaints
- Those complaints about Social Services that are covered by the statutory complaints procedure for that service.

- Complaints relating to issues/actions that occurred more than 12 months prior to the date of the complaint
 - Complaints about matters which have been referred to the Local Government Ombudsman and on which the Ombudsman has already made a decision
 - Habitual and vexatious complaints. These are covered by the procedure set out in Appendix 1
19. Complaints relating to harassment or discrimination because of age, disability, gender, gender identity, race, religion or sexuality, will be dealt with by the Chief Executive, or his nominated representative, in accordance with the procedures in paragraphs 47-49.

Recording and Monitoring Complaints

20. The Corporate Complaints Officer will maintain an accurate and up-to-date record of all complaints received at all stages of the complaints procedure, including those notified to the Council by the Local Government Ombudsman.
21. The Corporate Complaints Officer will prepare reports for the Monitoring Officer at agreed intervals on the number of complaints received and other relevant statistical information and analysis. These reports will be presented to the Chief Officer Group for consideration.

Contracted-out Services

22. The specification for contracted-out services must require contractors to use the Council's Complaints Procedure. Any complaints about contracted-out services must be passed initially to the relevant client officer. The Equality Standard Project Manager must be informed of any cases of alleged harassment or discrimination involving contracted out services.

COMPLAINTS PROCEDURE

Using the Complaints Procedure

23. A customer may contact the Council to make what they consider to be a 'complaint' about some aspect of a service provided by the Council. If this occurs the officer receiving the 'complaint' must ask the complainant whether they have raised this particular issue with the Council before - see paragraph 13.
24. If the 'complaint' has not been raised before, it should be treated as a 'request for service or the report of a problem' (RS/RP). The officer who has received the RS/RP should then either deal with it themselves, or refer it to the appropriate section or department for action and tell the customer who is handling it.

25. The officer who takes responsibility for the RS/RP must respond to the customer, in either in writing, by telephone, interview or personal visit, as soon as possible. If the RS/RP cannot be resolved quickly, the officer should tell the customer when they can expect a response.
26. The customer should be told that if they are not satisfied with the department's response to their RS/RP, they should contact the Complaints Officer. If this occurs, the RS/RP will now be regarded as a **complaint** under this procedure.
27. Employees should make every reasonable effort to help the customer to make their complaint and should send or give a complaint form to the customer or give them the Corporate Complaints Officer's telephone number and e-mail address if this is appropriate. Complainants will need to make or confirm their complaint in writing if it is to be investigated by the Council.
28. A customer may send/give a completed complaint form to any Council employee, regardless of the department to which the complaint relates. It is the responsibility of that employee to pass the form quickly to the Corporate Complaints Officer. The customer has the right to have their complaint dealt with in confidence.
29. On receipt of a written complaint, the Corporate Complaints Officer should:
- Record the complaint
 - Send an acknowledgement to the complainant within **two** working days. This must tell the customer who is handling the complaint and when they can expect a reply
 - Pass details of the complaint to the nominated Investigating Officer, by way of the departmental Complaints Co-ordinator.
30. A standard guidance memo and monitoring sheet will be sent to the Investigating Officer with the form.
31. The Investigating Officer must investigate the complaint under Stage 1 of the Complaints procedure and must either:
- Respond to the complainant fully in writing within **ten** working days, or,
 - If the complaint requires prolonged investigation, send the complainant a holding reply within ten working days, and thereafter complete the investigation as quickly as possible

The Investigating Officer must provide the Complaints Officer with copies of the response and any letters sent to the complainant.

32. The Investigating Officer will decide from his/her Stage 1 investigation whether the complaint is to be upheld, partially upheld, or not upheld,

and has discretion to propose a remedy to the customer under the Remedy Policy.

33. In line with the guidance provided, the Investigating Officer's response must tell the complainant what to do if they are not satisfied with the outcome of the Stage 1 investigation.
34. The Investigating Officer must complete and return the monitoring sheet to the Corporate Complaints Officer, together with a copy of the response.
35. If the complainant is not satisfied with the outcome of the investigation they can ask for the complaint to be investigated under Stage 2 of the Complaints procedure. The Stage 2 investigation will be conducted by the Chief Executive or his nominee.
36. Under Stage 2 of the procedure the Chief Executive may seek information or guidance from the appropriate Chief Officer before replying to the complainant.
37. The Chief Executive must either:
 - Respond to the complainant fully in writing within **fifteen** working days, or if the complaint requires prolonged investigation:
 - Send the complainant a holding reply within ten working days, and thereafter complete the investigation as quickly as possible
38. The Chief Executive will decide from his/her Stage 2 investigation whether the complaint is to be upheld, partially upheld, or not upheld, and has discretion to propose a remedy to the customer under the Remedy Policy.
39. In line with the guidance provided, the Chief Executive's response must tell the complainant what to do if they are not satisfied with the outcome of the Stage 2 investigation.
40. If the complainant is not satisfied with the outcome of the Stage 2 Investigation, the complaint may, at the discretion of the Chief Executive, be referred to the Standards Committee.
41. If it is decided to refer the complaint to the Standards Committee, a meeting of the Committee must be arranged, if possible, within **ten** working days.
42. The Committee will consider reports from the Director of Corporate and Adult Social Services, the Chief Executive and the Chief Officer concerned. The complainant and the relevant Chief Officer, or their representative, will be entitled to attend the meeting to present their 'case' and to call witnesses if they consider this is appropriate.

43. The complainant will have the right to be accompanied by an advocate of their choice such as an advice worker, a councillor, legal representative, trade union representative or a relative or close friend. The Director of Corporate and Adult Social Services, or his representative, will advise the Committee.
44. After the case has been presented the complainant and the Chief Officer will withdraw while the Committee considers the complaint. The complainant and the Chief Officer will then be recalled and given the Committee's decision. The Committee may approve appropriate action, make recommendations to other committees or call for further reports to a future meeting.
45. The Director of Corporate and Adult Social Services will inform the complainant in writing of the Committee's decision, and will explain the complainant's right to refer the complaint to the Local Government Ombudsman if they remain dissatisfied with the outcome.
46. When a disabled person is involved in this procedure, reasonable adjustment to the implementation of the procedure will be made to ensure that they are not treated any less favourably than a person who is not disabled. (see paragraph 89)

Complaints Involving harassment or discrimination

47. A complainant may allege harassment, or discrimination in Council services because of age, disability, gender, gender identity, race, religion or sexuality. Complaints of this sort should be made on the Council's complaint form and forwarded to the Chief Executive.
48. Complaints about harassment and discrimination will be dealt with immediately whether or not the issue has been raised with the Council before. The investigation of the complaint will be co-ordinated by the Equality Standard Project Manager and will be conducted within the timescales described in paragraphs 29-41, with these additional provisions:
- At the first stage the complaint will be investigated by the departmental Investigating Officer and the Corporate Complaints Officer will advise as required. At the second stage the relevant Chief Officer and the Equality Standard Project Manager will jointly investigate the complaint.
 - Both the complainant and the person complained about will be interviewed by the appropriate investigator(s)
49. If the Investigating Officer, Chief Officer or Equality Standard Project Manager disagree about the outcome of the investigation, the complaint will be referred to the Chief Executive who will refer the complaint to the Standards Committee.

Complaints about Councillors

50. Complaints about the conduct of Councillors are outside the scope of this procedure, and are investigated by the Standards Board for England <http://www.standardsboard.co.uk/> The Standards Board may delegate investigations to the local Standards Committee. In these circumstances, the Monitoring Officer will appoint an Investigating Officer, or officers, to produce a report for the Standards Committee. The Standards Committee will then consider the complaint according to its own terms of reference.

Referrals to the Local Government Ombudsman

51. At any time and at any stage in the Complaints procedure, a customer may refer their complaint, either directly or through a councillor, to the Local Government Ombudsman.

52. The Ombudsman will not normally investigate a complaint unless the Council has had the opportunity to resolve it through the Council's internal Complaints Procedure. This means that before the Ombudsman gets involved, the complaint will in most cases have been investigated under Stage 1, and possibly Stage 2 of the Complaints procedure.

53. The actions listed below are what normally happens if the customer is not satisfied with the outcome of the Council's investigation and refers their complaint to the Ombudsman.

- The Ombudsman will ask the Council for its formal observations on the complaint and the Corporate Complaints Officer will send the Ombudsman copies of the investigation and any correspondence, together with a note of the decision made and any action taken
- If the Ombudsman decides to formally investigate the complaint, the Corporate Complaints Officer will liaise and co-operate with the Ombudsman's investigator and will provide such information and arrange such meetings as he/she may request.
- When the investigation is completed the Ombudsman will issue a draft report, without a decision or recommendation, for the Council and the customer to check for factual accuracy. When this has been done, the Ombudsman will issue the final report indicating whether or not maladministration has been found and whether this has caused injustice.
- The Ombudsman may also recommend a remedy. Under statutory requirements, the Director of Corporate and Adult Social Services will place a notice in the local press indicating that the report is available for public inspection for three weeks

- If maladministration causing injustice is found, the Council must consider the report and tell the Ombudsman what action it proposes to take. In such cases, the Director of Corporate and Adult Social Services will submit the report to the Standards Committee and the Council, together with a covering report recommending appropriate action.

Complaints against employees

54. The Corporate Complaints Procedure does not apply to complaints that may lead to disciplinary action being taken against an employee.
55. If the type of complaint indicates that disciplinary action against an employee may be involved, the relevant Assistant Director will decide whether to invoke the disciplinary procedure.
56. In exercising powers under this complaints procedure, the Chief Executive, the Director of Corporate and Adult Social Services and the Standards Committee, will not have the power to change a decision of an Assistant Director about disciplinary action against an employee.

The Role of the Monitoring Officer

57. Under the Local Government and Housing Act 1989 the Director of Corporate and Adult Social Services, as Monitoring Officer, has a statutory duty to deal with any proposal, decision, or omission by the Council which has given, or is likely to give, rise to maladministration or which contravenes any code of practice or rule of law.
58. While monitoring the operation of this complaints procedure, the Monitoring Officer will consider these duties, including his/her duty to report to the full Council if necessary.
59. The Local Government Ombudsman has drawn particular attention to the role of the Monitoring Officer in advising councils.

Use of advocates

60. Customers will be offered the opportunity to be put in touch with independent people who can speak on their behalf, help with translation or interpretation, or provide any other help they want, at any stage in the Complaints procedure.
61. When a complaint is considered by the Standards Committee, the complainant has the right to be accompanied at the Committee meeting by an advocate of their choice such as an advice worker, Councillor, legal representative, trade union representative or a close friend or relative. This is in addition to any reasonable adjustments that they may need such as a personal assistant, British Sign Language interpreter, or other language support.

62. Before any meeting or hearing the complainant should tell the Investigating Officer or the Chair of the Standards Committee whether they will be bringing an advocate to the meeting and should tell him/her of any support or reasonable adjustments that they will require.

REMEDY AND COMPENSATION POLICY

Aims and Objectives

63. In line with the guidance produced by the Local Government Ombudsman, the purpose of the Remedy and Compensation Policy is to set out the Council's policy for assessing the appropriate remedy for people who have made a complaint and whose complaint has been upheld or partially upheld.

Remedy

64. The general principle of the policy is that a remedy should, so far as is practicable, return the complainant to the position in which they would have been had there been no failure on the part of the Council.
65. Generally, the remedy will be one or more of the following:
- An apology
 - The provision, within a stated timescale, of any service that was not provided at all, or was provided, but not to an acceptable standard
 - Compensation in the form of a financial remedy if the complainant has suffered a clear and definable financial loss
66. If their complaint relates to the service in general rather than to their individual case, the complainant should also be told about the action that has been or will be taken in response to their complaint.

Compensation

67. It is a general principle of the Remedy and Compensation Policy that compensation should only be provided if it is clear that the complainant has clearly been disadvantaged in some way, either by the cause of their complaint or in pursuing it.
68. Generally, compensation will be a payment in recognition of distress or inconvenience caused to the complainant however, other forms of compensation may be appropriate in some cases.
69. The policy allows for the following levels of compensation:
- At Stage 1 the Investigating Officer may authorise a payment of up to £50. Normally a payment of £10 or £20 should be deemed sufficient
 - At Stage 2 the Chief Executive, or his nominee, may authorise a payment of up to £1,000. Again, a substantially lower figure will generally be appropriate.

REMEDY AND COMPENSATION POLICY GUIDANCE

Upholding or partially upholding a complaint

- 70. A complaint is **upheld** when the Council concedes it was at fault in its actions or lack of actions, and that the responsibility for this lies solely or predominantly with the Council.
- 71. A complaint is **partially upheld** when the Council was partially at fault in its actions, but the actions of the complainant or a third party also contributed significantly to the situation that resulted in the complaint.
- 72. The Remedy Policy can apply when a complaint is upheld or partially upheld, but will normally only apply where the complaint is upheld.

Remedy

- 73. The appropriate remedy depends on the individual case. Often, an apology may be the only necessary action. In other cases more will be required but an apology should always be given when a complaint is upheld or partially upheld.
- 74. If the complaint is about a service not having been provided, for example a housing repair promised but not done, then the service should be provided as soon as possible.
- 75. If the service was provided but not to an acceptable standard, for example, the repair was done but not properly, the proper standard of service should be provided as quickly as possible.
- 76. When the service level is not specific to the complainant but relates to a wider problem, for example the time taken to provide a service, the senior managers of the relevant service area should be informed and asked, within a timescale, to look at the matter. The complainant should be informed that this will happen and of the timescale. When appropriate and practicable, the complainant should be informed of the outcome at a later date.
- 77. It should be possible to remedy most complaints as described above. However, in some cases a financial remedy may be appropriate. It is important to remember that this is not the same as compensation. A financial remedy is appropriate if the complainant has suffered a clear financial loss because of the Council's actions. It is for the complainant to demonstrate this loss, and that it resulted wholly or partially from the Council's actions. The Investigating Officer will consider what financial remedy is appropriate, based on the individual case.

Compensation

78. Regardless of the remedy the Council provides, compensation may also be considered appropriate.
79. Compensation is defined as an acknowledgement that the Council was at fault and that the time and effort the complainant has put into pursuing the issue would not have been necessary had the Council not been at fault in the first place. Compensation is separate from and in addition to the remedy, financial or otherwise.
80. Compensation could be offered when no financial remedy has been given, or may not be offered when financial remedy has been given. Compensation does not necessarily have to be financial. There may be cases when something more than an apology, but not a cash payment, is appropriate. In such cases a 'gesture' may be the best way to acknowledge the situation. This is the Investigating Officer's decision, although they may seek guidance.
81. In considering compensation, the Investigating Officer must consider the type of complaint, the degree of fault the Council accepts, and the amount of time and effort the complainant has put into it. It is also important to judge whether the time and effort was reasonable, or whether the complainant has, in the view of the investigator, gone to unnecessary lengths in pursuing the complaint. An example of the latter might be a complainant who has engaged solicitors for a minor complaint, or has made multiple visits or telephone calls despite being advised that this was not necessary.
82. An officer investigating a Stage 1 complaint has the discretion to award compensation of up to £50, although a 'standard' figure of £10 or £20 should normally be sufficient for time and trouble.
83. When a complaint is upheld at Stage 1 and compensation is offered and accepted (cashing the Council's cheque is seen as acceptance) the complaint will be considered resolved and the complainant will not have the option to escalate the complaint further through the Council's complaints procedure in the hope of further compensation. If the offer of compensation made after a Stage 1 investigation is rejected as too low by the complainant, the complaint should automatically be considered under Stage 2 of the Complaints Procedure.
84. The acceptance of compensation does not preclude the complaint from referring the matter to the Ombudsman.
85. When a complaint is not upheld at Stage 1 and is escalated to Stage 2 and upheld, the Chief Executive, or his nominee, has discretion to award up to £1,000 compensation, although a substantially lower figure should normally be appropriate.

86. The Council will not normally award a compensation figure beyond £1,000, but will rather refer the matter to the relevant committee or to the Ombudsman for a final decision.

GOOD PRACTICE GUIDANCE AND ADVICE FOR INVESTIGATING OFFICERS

87. Please read this guidance and advice before beginning your investigation.

Reasonable Adjustments and Access requirements

88. In order to make sure that our complaints procedure is as free from barriers as possible, officers investigating complaints must make sure:

- That meetings to discuss complaints are held in accessible places and that the access requirements of disabled people are met, for example by arranging for registered British Sign Language interpreters or lip speakers, induction loops, level or ramped access and car parking facilities, an advocate or personal assistant, and accessible information about the complaints procedure
- That the complainant's language and cultural needs are met by if necessary arranging for interpreters or advocates to attend the meetings to discuss the complaint
- Any correspondence should also be translated into the complainant's first language if this makes it more accessible for them

Planning the Investigation

89. You can decide the method and extent of investigation you use. In general, the minimum required is to read the complaint and contact the complainant. If you need more information or clarification, then examine any relevant records that exist. You may decide to speak to officers who are mentioned in the complaint or who have had dealings with the complainant in the past. If you have any doubts or concerns about your authority or the appropriateness of your investigation, please contact the Corporate Complaints Officer for advice, and/or speak to your line manager.

Conducting the investigation

90. It is likely that most complaints can be dealt with speedily and simply. However, when a more substantial inquiry is required, Investigating Officers may find this guidance helpful.

- a. Check if there are any previous complaints from this person.
- b. Contact the complainant to:
 - Clarify the complaint
 - Clarify the outcome sought
 - Check whether they need support of any kind, whether they have poor sight or hearing, or a language difficulty, check what they need to understand the discussion properly
 - Explain the investigation procedure

- c. Familiarise yourself with the relevant legal and administrative background to the complaint.
- d. Assess whether the complaints procedure is the most appropriate way of handling this complaint. Consider these alternative possible procedures and discuss them with the complainant if appropriate:
 - appeals to tribunals
 - legal action
 - police involvement
- e. Consider whether the complaint could be resolved without further investigation
- f. If the complaint is about a proposed action by the Council, consider whether the action should be deferred while the complaint is investigated
- g. Obtain all relevant documents, making sure that you see the originals, not copies. These may include files, log books and time sheets. Get copies of all documents you need.
- h. Establish the relevant sequence of events from the files and the names of the officers or councillors most directly involved in the matters complained of.
- i. Prepare the line of questioning for each person to be interviewed, making sure that you:
 - Use open, not leading questions
 - Don't express opinions in words or by your body language
 - Ask single, not multiple questions.
- j. Arrange the order of interviews so that if you need to establish what procedures are normally followed you do this first from more senior officers, and end with the officers most directly involved in the matters complained of.
- k. Inform all those to be interviewed that a friend or a trade union representative can accompany them, provided the friend is not in a supervisory position over them. Explain the complaint clearly to them.
- l. Consider whether you need a witness at a particularly difficult interview.
- m. Make sure each interview is as informal and relaxed as possible, but persist in your questions if necessary. Don't be afraid to ask the same question twice. Make notes of each answer given.
- n. Try to separate hearsay evidence from fact by asking interviewees how they know a particular fact.
- o. Deal with conflicts of evidence by seeking corroborative evidence. If this is not available then, as an exceptional measure, consider arranging a face-to-face meeting between the conflicting witnesses.
- p. At the end of the interview, summarise the main points covered by the interviewee in their own words, and ask if they have anything to add.
- q. Make a formal record of the interview from your written notes as soon as possible after the interview while your memory is fresh. Never leave it longer than the next day. Give the interviewee the opportunity to comment on the notes of the interview.

- r. If appropriate, visit the establishment complained about unannounced to check normal practices.
- s. Draft a report setting out the evidence, preferably without including your own opinions, and circulate it for comment to all those involved in the complaint. Include the complainant, unless there are special reasons not to do so.
- t. Consider comments and amend the report as necessary, adding conclusions and, if appropriate, a suggested remedy for the complainant.

Assessing the outcomes

- 91. When you have completed your investigation and are satisfied that you have all of the relevant facts needed to reach a conclusion, you must decide whether the complaint is upheld, partially upheld, or not upheld. To uphold a complaint you must be satisfied that the Council has acted inappropriately. If you are satisfied that the Council has acted correctly and fairly, you would not uphold the complaint. You may feel that the Council was at fault in some ways, but not in others. Alternatively you may feel that the actions of the complainant contributed to the situation they are complaining about. In such cases you may decide to partially uphold the complaint. These decisions will always be subjective and sometimes difficult, but you should try to reach the fairest conclusion you can. If you would like advice or a second opinion, please contact the Corporate Complaints Officer, or consult your line manager.

Replying to the Complainant

- 92. Your reply to the complainant should respond to each point they have raised as directly as possible, although you are justified in ignoring points which are clearly sarcasm, abuse or similar.
- 93. Try to be concise, without giving the impression that you are not fully considering the points raised.
- 94. If the complainant has suffered any inconvenience, even if this was not the result of the Council's actions, it is a good idea to apologise. There is nothing wrong with expressing sympathy that something happened, and this is not the same as admitting responsibility for it.
- 95. If we are admitting that something went wrong, it is very important to apologise. Often this is all the complainant wants, but it is often forgotten. Remember that apologies are best made simply and directly. Adding excuses or justifications usually just makes the apology seem less sincere, so say sorry clearly, and then move on. Try to explain why something went wrong and what we are doing to make sure it doesn't happen again, wherever possible.

96. Finally, please conclude your letter with the next paragraphs. You may amend them slightly to fit the style of your letter, but it is important that you keep basic meaning.

'I hope that you are satisfied with my response to your complaint. The Council takes complaints seriously and investigates each one. If you need any further clarification or explanation of what I have told you, please contact me.

If you are not satisfied with my response to your complaint you should, within 21 days of the date of this letter, write to the Council's Corporate Complaints Officer and give your reasons for disagreeing with my response. The Corporate Complaints Officer will then advise you of any other actions you can take. If you do not contact the Complaints Officer within 21 days of the date of this letter the Council will take no further action in respect of this complaint.

Administration

97. Please copy your reply to the complainant to your department's Complaints Co-ordinator, who will usually be the person who sent you the complaint. They will copy the response to the Corporate Complaints Officer. Please also complete and return the assessment sheet to the Corporate Complaints Officer. This is used to monitor how well the complaints system is working and to identify common trends, which we can tackle in the long term.

Please contact the Corporate Complaints Officer, on 255538 or by e-mail, for advice on any aspect of this complaints procedure.

Policy for dealing with Unacceptable Behaviour and Habitual or Vexatious Complainants

Introduction

98. This policy sets out the way in which the Council will respond to the relatively few complainants whose actions and behaviour are considered to be unacceptable.

Aims

99. The aims of this policy are to:
- Define behaviour on the part of a complainant which is considered to be habitual or vexatious and to suggest ways of responding to such behaviour
 - Provide the facility to restrict or change access to the Corporate Complaints Procedure where it is considered that a complainant's actions are habitual, vexatious, offensive or abusive
 - Protect Council employees from complainants who act in unreasonable or unacceptable manner

Definition of Unacceptable Behaviour and Habitual or Vexatious Complainants

100. Many complainants pursue their complaints forcefully and with persistence. This is to be expected and will not cause a problem unless the approach is taken to the extreme. The following actions are not however considered to be acceptable:
- Making demands for action or information that would impact substantially and unreasonably on the work of the Council
 - The persistent pursuit of a complaint when the Corporate Complaints Procedure has been fully and properly implemented and exhausted
 - Continually changing the substance of a complaint and raising further concerns and questions whilst the complaint is being addressed
 - A refusal by the complainant to identify the precise issues that they wish to be investigated, despite reasonable efforts by staff to help them identify their concerns
 - The continued focus on a trivial matter to an extent that is out of proportion to its significance
 - A persistent refusal to identify the redress required
 - To threaten or offer violence to Council staff or to harass, personally abuse or be verbally aggressive to staff or to act in

such other manner as falls within the definitions listed within the Council's Abuse, Aggression and Violence Code

Response to Unacceptable Behaviour, Habitual or Vexatious Complainants

101. Assistant Directors, in consultation with the Corporate Complaints Officer and/or the Scrutiny and Complaints Manager and, if appropriate, the Council's legal representative, may decide to deal with persistent and vexatious complaints and those who behave unacceptable in one or more of the following ways:

- Through a signed agreement setting out a code of behaviour that the complainant must adhere to.
- By restricting or prohibiting access to Council premises and by placing the complainant's name on any register maintained for the purpose of identifying people who are restricted or prohibited from entering Council premises
- By limiting communication with the complainant to just one form (telephone, fax, e-mail or letter) and to one point of contact
- By confirming to the complainant in writing that the investigation is complete and that as continued contact will serve no useful purpose future letters will be acknowledged but not answered
- By temporarily suspending the investigation and all contact with the complainant whilst guidance is sort from the Legal Department or the Ombudsman
- By informing persistent complaints in writing that if they continue to complaint unnecessarily, the Council reserves the right to take no action in response to their complaints

CORPORATE COMPLAINTS PROCEDURE

Complaint Assessment Sheet

Please provide this information for monitoring purposes and return this form, with a copy of your response to the complaint to:

Co-ordinator's name

Complaint reference

Investigating Officer's name

Upheld/partially/not upheld - please circle

Remedy or compensation offered, if any

Has the situation complained about now been resolved? Yes No

If 'no', what is the timescale for resolution, if this can be assessed?

Approximate time you spent investigating and responding to this complaint

Comments

Please use this section to give any particular views you have on the complaint. Also, please add action you feel the Council could, or should, take either specifically or in general to prevent similar complaints or improve the service complained about.

Customer Service Standards

Putting customers at the heart of everything we do

Derby City Council is committed to improving and modernising public services to provide high standards of customer service to the people who live and visit Derby. Setting standards makes it possible for us to measure how much we are improving.

The Customer Service Standards have been developed by employees and reflect their wish to provide customers with efficient and courteous service.

These Standards have been widely adopted and embraced and we will continue to work towards them to become a truly customer focused organisation.

Our passion is delivering high quality customer services for you.

We will:

- treat you politely and with respect
- listen to you and take your views, wishes and needs seriously
- make sure that our employees are trained to give you the help and advice that you need
- use plain language and not use jargon
- provide information in other languages and arrange for a BSL interpreter where needed
- not discriminate against you.

When answering the telephone and minicom, we will:

- aim to answer your call within six rings
- greet you politely and clearly
- tell you who you are speaking to and the name of the service or place you are calling
- put calls through to the right place first time
- take a message or give you the correct number to phone if we cannot transfer your call
- return your messages within one working day.

When dealing with your letters and faxes, we will:

- provide an acknowledgement where requested
- give you details of who is dealing with your enquiry
- respond to your enquiry within five working days.

When dealing with your emails, text or other electronic communications, we will:

- provide an acknowledgement
- give you details of who is dealing with your enquiry
- respond to your enquiry within five working days.

When you visit Council buildings, we will:

- create an accessible environment that is welcoming, safe and friendly
- provide clear signs in reception areas
- provide self service facilities where appropriate
- make sure you are greeted within three minutes of arriving.

When we meet you face-to-face, we will: be on time

- wear name badges or carry official identification
- arrange a time and place for you to discuss issues in private
- where appropriate, make other arrangements to see you if you cannot visit us
- provide a follow up card with contact details, where appropriate.

Dealing with complaints, comments and compliments, we will:

- provide you with information about how to report a complaint, comment or compliment
- record complaints, comments and compliments and use them to review and improve our services
- respond to all complaints within 10 working days*
- treat complaints confidentially, while making sure we are fair to everyone concerned
- inform you how you can take your complaint further if you are not satisfied with our response
- apologise when we are at fault and do our very best to put things right.

We will keep customers informed and involved by:

- producing information about the Council and our services that is accurate, useful and up to date
- providing information in other languages and making this accessible if you are a disabled person
- publishing regularly how well we are meeting our Customer Service Standards
- reviewing the Customer Standards every year using your feedback to help us make decisions.

Our employees have a right to:

- work in a safe environment free from aggressive or threatening behaviour
- be treated politely.

Help us to help you by letting us know:

- in good time if you need to cancel or rearrange an appointment
- if you need a BSL interpreter or any other language interpreter
- immediately if you are unhappy with the service you have received
- if you are pleased with the service you have received.

*Social Services complaints will be fully investigated within 28 days.

Response to the changes to the way in which the Local Government Ombudsman (LGO) deals with complaints.

1. Introduction

The third issue of 'LGO Link', the newsletter of the Local Government Ombudsman (LGO), summarised the outcome of the service review that the LGO has carried out in response to a budget cut of 15% over the next three years.

One of the outcomes of the review was a decision that, from April 2009, the LGO would only accept complaints that have been through all stages of a council's complaints procedure. However in the November 2008 issue of the LGO newsletter it was reported that the proposal had been amended and that the following categories of complaints would be considered as exceptions to the 'all stages' requirement:

- a) Complaints about education (except transport)
- b) Complaints about homelessness
- c) Complaints by or on behalf of children or young people
- d) Complaints against more than one body
- e) Complaints where the Council's chief executive has exercised discretion not to investigate further
- f) Complaints where the LGO has exercised discretion to accept a complaint because he/she has good reason to believe the Council would not handle it effectively
- g) Where there has been unreasonable delay by the Council in processing a complaint
- h) Where the LGO decides it is appropriate to check on progress with a 'premature' complaint

It is thought that the changes proposed by the LGO may result in the Council's Complaints team having to undertake more Stage 2 reviews. It is difficult at this stage to determine how many more Stage 2 investigations the Complaints team will need to undertake, but it is thought it will be necessary to make some adjustments within the Complaints Team to accommodate the anticipated increase in Stage 2 complaints.

2. Numbers and category of complaints

Table 1 below contains complaint information for Derby City Council. This information has been extracted from the LGO webpages.

Table 1

	2007/08	2006/07
Total Complaints determined (excluding premature complaints)	37	40
Maladministration and injustice reports	0	0
Local Settlements	5	7
Maladministration reports	0	0
No maladministration reports	0	0
No Maladministration without report	15	20
Ombudsman's discretion	12	9
Outside jurisdiction	5	4

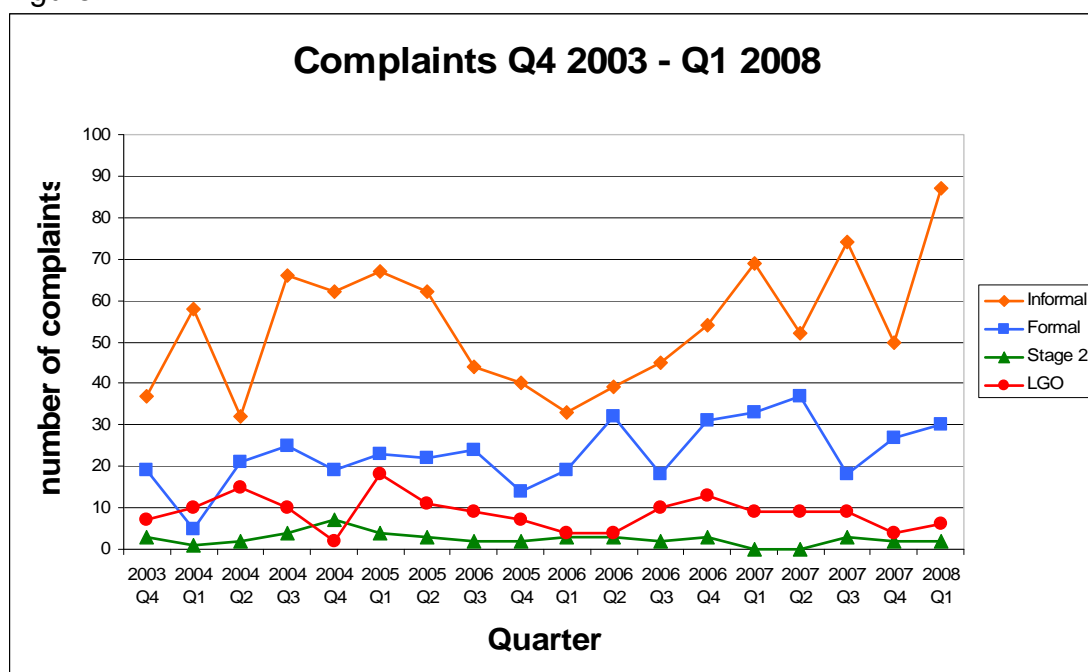
More detailed historic data on the number of complaints is available from the quarterly reports to the Chief Officer Group (COG).

Figure 1 below has been derived from information contained in the COG reports for the period Quarter 4/2003 to Quarter 1/2008.

Figure 1 shows that the number of Ombudsman complaints closed each quarter averages at around 10, or around 40 per year. This average corresponds well with the LGO's figures for 2006/07 and 2007/08.

Figure 1 also shows that the Corporate Complaints team undertakes an average of around three Stage 2 complaint investigations each quarter, whilst formal, Stage 1 complaints average out at around 25 per quarter.

Figure 1



3. Effect of the Ombudsman's decision

The figures from the COG reports suggest that of the 25 or so formal Stage 1 complaints received each quarter around three are further investigated under Stage 2 of the Corporate Complaints procedure.

From the LGO figures it seems that each quarter about 10 of the 25 Stage 1 complaints received by the Council are referred to and are investigated by the Ombudsman.

Some of the 10 complaints investigated each quarter by the Ombudsman are likely to have already been investigated by the Corporate Complaints team under Stage 2 of the Corporate Complaints procedure. If this was the case for all three of the Stage 2 investigations conducted each quarter by the Corporate Complaints team, the inference of the LGO's decision is that the team will be required on average to conduct a further seven Stage 2 investigations each quarter. If none of the Stage 2 investigations conducted by the Complaints team is referred to the Ombudsman, then the team will need to conduct a further 10 Stage 2 investigations each quarter.

4. Work load implications of the Ombudsman's decision

Stage 2 investigations vary considerably in their complexity and consequently in the time required to conduct them. In order to assess the implications of the Ombudsman's decision it has been assumed, based on previous experience that a Stage 2 investigation will take on average around eight working hours to complete. On that basis the additional seven to ten Stage 2 investigations that are anticipated as a consequence of the LGO's decision will involve between 56 and 80 additional hours working time per quarter. This amounts to between 4.7 and 6.7 additional hours per week.

5. Actions proposed to address the increased work load that will result from the LGO's decision

5.1 Staffing/resource changes

The Corporate Complaints team currently comprises:

- Scrutiny and Complaints Manager (estimated as around 7.5 hrs/week)
- Complaints and Compliance Manager (estimated as around 7.5 hrs/week)
- Corporate Complaints Officer (37 hrs/week)
- Team Administrator (estimated as around 30 hrs/week)

To meet any increased work load resulting from the change to the Ombudsman's working procedures it is proposed that the additional Corporate Complaints team resource required is provided by increasing the amount of time that the Complaints and Compliance Manager, or if he/she is not available, an other officer, spends each week on Corporate Complaints work. An increase in the time spent on Corporate complaints from one to two days (7.5 to 15 hours) per week should provide the additional resource needed to deal with the expected increase in work load.

If the Complaints and Compliance Manager is to provide the additional resource there will be a reduction in the time that he/she can spend on Social Services work and this will need to be agreed with his/her manager in Adult Social Services.

Other actions that can be taken involve actions to reduce the number of complaints about Council services. It is proposed to investigate initiatives for this purpose with the service departments.

DRR 18 February 2008.