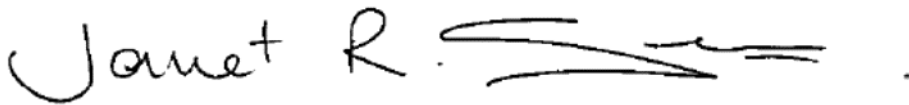


# Public Document Pack

## Standards Committee Members

Members of the committee, listed below, are summoned to attend the meeting to be held on Thursday, 22 November 2018.



Janet Senior, Acting Chief Executive  
November 14 2018

Councillor Obajimi Adefiranye	Fasil Bhatti
Councillor Peter Bernards	Gill Butler
Councillor Andre Bourne	David Roper-Newman
Councillor Bill Brown	Cathy Sullivan
Councillor Colin Elliott	Leslie Thomas
Councillor Alex Feis-Bryce	Joy Walton
Councillor Caroline Kalu	
Councillor Jim Mallory	
Councillor Joan Millbank	
Councillor Hilary Moore	



# Standards Committee Agenda

Thursday, 22 November 2018

**7.00 pm**, Civic Suite Lewisham Town Hall Catford SE6 4RU

Civic Suite

Lewisham Town Hall

London SE6 4RU

For more information contact: Troy Robinson 0208 3149365 (Tel: 020 8314 9365)

## Part 1

<b>Item</b>		<b>Pages</b>
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4.	Whistleblowing Review	38 - 55
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STANDARDS COMMITTEE		
<b>Report Title</b>	Declarations of Interests	
<b>Key Decision</b>	No	Item No. 1
<b>Ward</b>	n/a	
<b>Contributors</b>	Chief Executive	
<b>Class</b>	Part 1	Date: November 22 2018

## Declaration of interests

Members are asked to declare any personal interest they have in any item on the agenda.

### 1 Personal interests

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (1) Disclosable pecuniary interests
- (2) Other registerable interests
- (3) Non-registerable interests

### 2 Disclosable pecuniary interests are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person\* for profit or gain
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person\* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.

- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member’s knowledge, the Council is landlord and the tenant is a firm in which the relevant person\* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:-
  - (a) that body to the member’s knowledge has a place of business or land in the borough; and
  - (b) either
    - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or
    - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person\* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

\*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

### **(3) Other registerable interests**

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council
- (b) Any body exercising functions of a public nature or directed to charitable purposes , or whose principal purposes include the influence of public opinion or policy, including any political party
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25

### **(4) Non registerable interests**

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members’ Interests (for example a matter concerning the closure of a school at which a Member’s child attends).

## **(5) Declaration and Impact of interest on members' participation**

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must not take part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**
- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.
- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their, family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

## **(6) Sensitive information**

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

## **(7) Exempt categories**

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception)
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt
- (d) Allowances, payment or indemnity for members
- (e) Ceremonial honours for members
- (f) Setting Council Tax or precept (subject to arrears exception)

# Agenda Item 2

STANDARDS COMMITTEE		
<b>Report Title</b>	Minutes	
<b>Key Decision</b>	No	Item No. 2
<b>Ward</b>	n/a	
<b>Contributors</b>	Head of Law	
<b>Class</b>	Part 1	Date: November 22 2018

## Recommendation

It is recommended that the Minutes of the meetings of the Committee, which was open to the press and public held on July 18 2018 be confirmed and signed (copy attached).



# MINUTES OF THE STANDARDS COMMITTEE

Wednesday 18 July 2018 at 6.00 pm

PRESENT: Councillors Obajimi Adefiranye (Chair), Peter Bernards, Bill Brown, Colin Elliott, Alex Feis-Bryce, Caroline Kalu and Hilary Moore.

Also Present Fasil Bhatti, Cathy Sullivan and David Roper-Newman.

Apologies for absence were received from Councillors: Andre Bourne, Jim Mallory and Joan Millbank and Independent Members: Gill Butler, Leslie Thomas QC and Joy Walton.

## 1. Declaration of interests

No declarations were made.

## 2. Standards Committee Minutes

RESOLVED that the minutes of the meeting held on October 17 2017 and May 23 2018 be confirmed and signed as a correct record.

## 3. Introduction and Role of the Committee

All members of the Committee and officers present introduced themselves to-the members of the Committee.

The Head of Law made a presentation to the committee on “The Role of The Standards Committee.”

During the course of the presentation members of the Committee raised various questions and made enquiry about the possibility of further training. If members have particular needs for training the Head of Law agreed to arrange it.

RESOLVED that the presentation by the Head of Law be noted.

## 4. Annual Complaints Report 2016-17

The Head of Public Services presented the report which provided performance information for 2016/17 on complaints dealt with by the Council and its housing partners at Stages 1 and 2 of the Corporate Complaints procedure and complaints and enquiries to the Mayor, Councillors and MPs logged on the Council’s complaints management system during 2016/17.

The report and presentation did not include complaints or enquiries in relation to adult and children’s social care both of which are reported individually and publicised according to statutory guidance.

The Independent Adjudicators report and the Local Government Ombudsman report were also considered.

The report included a breakdown of complaints and enquiries on a ward basis.

It was explained that the casework review had been implemented in 2016/17 and had resulted in a new corporate complaints and casework team. There had been a big increase in complaints, up by 33%, and the scale of the Council's savings as a result of the government's programme of austerity was a significant reason for the increase.

It was observed that Customer Services appear to be doing something right and it was suggested that there may be lessons to be learnt from that team.

It was also suggested that there may be some merit in adopting the Local Government Ombudsman's definition of complaints and this may assist in reducing the number of complaints.

RESOLVED that the report be noted.

## **5. Review of Local Code of Corporate Governance**

Paul Aladenika, Principal Policy Officer, introduced the report and explained that this is a standard report presented to the Standards Committee annually. This year's report has been revised to take on board the previous comments of the Standards Committee for the report to be formatted differently.

RESOLVED that the report be noted.

## **6. Work Programme**

The Head of Law presented the item and invited the Committee to comment.

RESOLVED that the work programme shown in paragraph 3.3 be agreed.

### DATE OF NEXT MEETING

22<sup>nd</sup> November 2018

The meeting ended at 7:15 pm

# Agenda Item 3

	<b>Standards Committee</b>		
<b>Title</b>	Annual Complaints Report 2017-18		
<b>Key decision</b>	No	<b>Item no</b>	
<b>Wards</b>	All wards		
<b>Contributors</b>	Executive Director for Customer Services and Head of Public Services		
<b>Class</b>	Part 1	22 November 2018	

## 1 Executive Summary

- 1.1 This report provides performance information on complaints dealt with by the Council and its housing partners at stages 1 and 2 of the Corporate Complaints procedure as well as complaints and enquiries to the Mayor, Councillors and MP's received during 2017/18. There were a total of 6,992 complaints and enquiries received in 2017/18. This represents a 22% increase when compared to 2016/17.
- 1.2 This report does not include complaints or enquiries about the provision of adult and children's social care, both of which are reported individually and publicised according to statutory guidance.
- 1.3 The Independent Adjudicator's (IA) report is attached at Appendix 1. The IA dealt with 105 complaints between 1 April 2017 and 31 March 2018, of which she upheld or partly upheld 26%. The IA responded to 91% within the 30-day response standard and identified a number of issues from the complaints and makes recommendations for improvement.
- 1.4 The Local Government Ombudsman (LGO) report is attached at Appendix 2. In 2017/18, the LGO made decisions on a total of 24 cases, which is 14 less than last year – the figures are attached at Appendix 3.

## 2 Purpose of Report

- 2.1 To provide information on complaints performance in 2017/18.

## 3. Recommendation

The committee is recommended to:

- 3.1 Note the contents of the report.

## 4 Introduction

- 4.1 This report summarises how the Council and its housing partners performed when dealing with complaints. The report does not cover statutory complaints received for adult and children's social care that are subject to separate reports.
- 4.2 Also included is a summary of the Independent Adjudicator's report and a summary of the LGO's Annual Review with the full reports attached as appendices.

4.3 The report goes to the Standards Committee, Public Accounts Select Committee and Mayor and Cabinet.

**5. Stage 1 and Stage 2 complaints, MP, Mayor and Councillor enquiries**

5.1 The standard response times and responsibilities for responding to complaints at each stage are:

Stage 1 – 10 days by the Service Manager

Stage 2 – 20 days by the Corporate Complaints & Casework Team

Stage 3 – 30 days by the Independent Adjudicator

MP/Mayor/Councillor – 10 days by the Head of Service or Executive Director

5.2 The tables below show the number of complaints and enquiries dealt with by the Council in the last financial year. The tables are broken down by directorate and show the percentages dealt with in the standard response times. The statistics are for cases logged into iCasework between 1 April 2017 and 31 March 2018 compared with performance over the same period in 2016/2017.

**Table 1 – total volume of complaints and enquires by directorate Total Complaints and Enquiries**

	<b>Total Complaints &amp; Enquiries</b>		
<b>Directorate</b>	<b>2016/2017</b>	<b>2017/2018</b>	<b>% increase/ decrease</b>
<b>Children and Young People</b>	295	257	<b>-13%</b>
<b>Community Services</b>	280	293	<b>+4%</b>
<b>Customer Services</b>	3,633	4,664	<b>+28%</b>
<b>Lewisham Homes</b>	824	935	<b>+13%</b>
<b>Resources &amp; Regeneration</b>	711	843	<b>+19%</b>
<b>Total</b>	<b>5,743</b>	<b>6,992</b>	<b>+22%</b>

Table 2- Stage 1 and Stage 2 Complaints by directorate with % responded to on time.

Directorate	Stage 1 Complaints					Stage 2 Complaints				
	2016/ 2017	%	2017/ 2018	%	Variance	2016/ 2017	%	2017/ 2018	%	Variance
Children and Young People	134	77	113	37	-21	7	86	12	49	+5
Community Services	86	53	54	51	-30	2	0	4	50	+2
Customer Services	2,271	90	3,122	90	+851	63	80	81	61	+18
Lewisham Homes	339	96	370	84	+31	71	100	77	90	+6
Resources & Regeneration	299	75	343	77	+44	27	70	31	28	+4
<b>Total</b>	<b>3,129</b>	<b>78</b>	<b>3,983</b>	<b>68</b>	<b>+854</b>	<b>170</b>	<b>67</b>	<b>205</b>	<b>56</b>	<b>+35</b>

Table 3- MP, Mayor, Members, and CEO enquiries by directorate\*

Directorate	MP			Mayor			Members			Chief Executive		
	2016/ 2017	2017/ 2018	Variance	2016/ 2017	2017/ 2018	Variance	2016/ 2017	2017/ 2018	Variance	2016/ 2017	2017/ 2018	Variance
Children and Young People	118 (24)	112 (36)	-6	1 (100)	8 (38)	7	28 (32)	7 (57)	-21	4 (0)	0 (N/A)	-4
Community Services	79 (48)	144 (60)	65	17 (35)	10 (60)	-7	69 (52)	67 (56)	-2	8 (13)	6 (67)	-2
Customer Services	808 (79)	877 (73)	69	136 (82)	201 (51)	65	281 (81)	298 (73)	17	37 (87)	45 (77)	8
Lewisham Homes	254 (79)	356 (91)	102	47 (87)	23 (78)	-24	99 (96)	81 (90)	-18	2 (100)	3 (67)	1
Resources & Regeneration	136 (74)	168 (80)	32	47 (73)	29 (55)	-18	198 (89)	252 (87)	54	8 (78)	12 (75)	4
<b>Total</b>	<b>1,395 (61)</b>	<b>1,657 (68)</b>	<b>262</b>	<b>248 (75)</b>	<b>271 (56)</b>	<b>23</b>	<b>675 (70)</b>	<b>705 (73)</b>	<b>30</b>	<b>59 (72)</b>	<b>66 (76)</b>	<b>7</b>

\*figures in brackets denote the percentages dealt within the specified corporate targets.

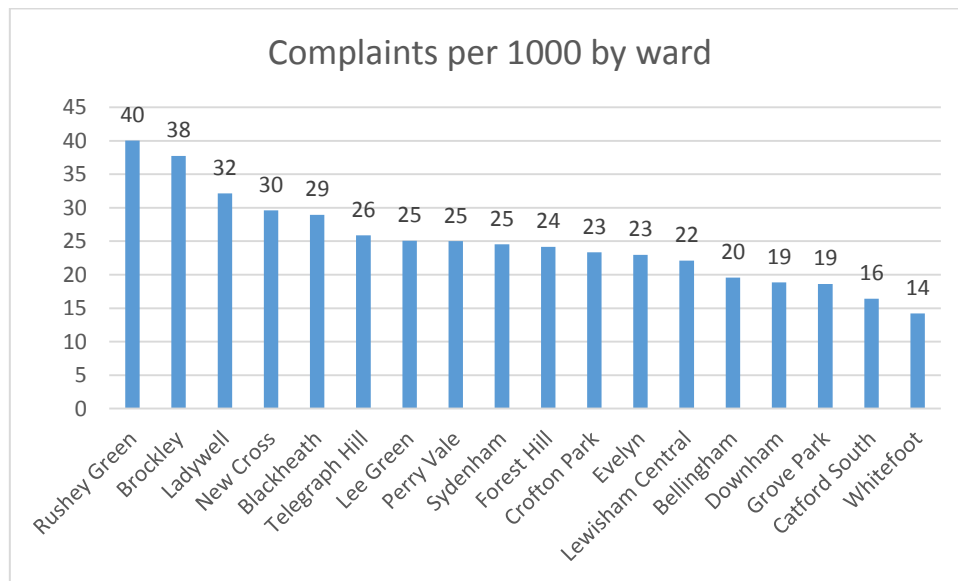
NB/ The figures in Table 2 and 3 do not include the 105 complaints handled by the Independent Adjudicator at Stage 3 (please see Section 6 of this report).

5.3 The total number of complaints and enquiries received in 2017/18 was 6,992, which was an increase of 1,249 (22%) on the previous year, and a continued increase from previous years as shown below.

- 2015/2016 – 4,308 complaints and enquiries received
- 2014/2015 – 4,335 complaints and enquiries received
- 2013/2014 – 4,430 complaints and enquiries received
- 2012/2013 – 4,772 complaints and enquiries received

#### 5.4 Complaints and enquiries by ward.

5.4.1 The distribution of complaints per 1,000 of the population received by Ward is shown below.



5.5 The three wards that received the highest level of complaints and enquires were Rushey Green, Brockley and Ladywell.

5.5.1 In Rushey Green, Highways (street works) was the top reason why customers complained followed by refuse and then housing (advice and reviews). This is the same as 16/17.

5.5.2 Brockley was the ward which received the second highest number of complaints and enquiries per 1000. The top reasons why customers complained were Refuse, Leasehold Services, and Lewisham Homes (Tenancy team).

5.5.3 Ladywell was the ward which received the third highest number of complaints and enquiries per 1000 of the population. The top reasons why customers complained were Refuse, Lewisham Homes (Tenancy team), Leasehold Services.

5.5.4 Whitefoot received the lowest number of complaints per 1000 of the population.

#### 5.6 Trends

5.6.1 On analysing the reasons for complaints, the top three issues identified for 2017/18 were as follows:

1. Highways
2. Environment
3. Council Tax

- 5.6.2 This top 3 has changed from the previous year. Last year the top 3 reasons for complaints were Highways, followed by Housing Needs, and then Environment.
- 5.6.3 The services with the top three issues have provided comments on what has generated complaints within their service area.

## **5.7 Highways**

- 5.7.1 The Highways Department advise that there has been a growth in enquiries regarding electric vehicle charging, with enquires about personal vehicle charging and requests for charging points in residential areas being the main focus of enquiries.
- 5.7.2 Whilst the Deptford South CPZ is now in place and the Ladywell extension is imminent, parking enquiries continue to be a large part of the total. These range from CPZ requests to requests for yellow line restrictions for road safety.
- 5.7.3 The number of enquiries requesting the removal of rat-running traffic continues to rise as this becomes more and more part of the political debate, and with rising concerns about air quality.
- 5.7.4 Enquiries around adherence to the 20 mph speed limit and with regard to vehicle speeds generally continue. The Council is developing a priority list of roads to be treated.
- 5.7.5 There continues to be a lot of requests for cycle hangers and although these are being delivered, requests greatly outstrip supply.
- 5.7.6 New Streetscape schemes in Grove Park and in Sangley Road / Sandhurst Road have generated a significant number of enquiries, as is the up-coming Crofton scheme.
- 5.7.7 Drainage and pothole enquiries remain significant.
- 5.7.8 There are a growing number of enquiries relating to delayed utilities works.

## **5.8 Environment**

- 5.8.1 The main areas that generate complaints under Environment are waste services and cleansing (including, street sweeping abandoned vehicles and fly-tipping).
- 5.8.2 Environment advise that there has also been a slight increase in fly tipping complaints. Again, due to budget restraints, the Council cannot remove fly-tipping as quickly as it used to. The authority continues to pursue formal enforcement action where appropriate. Prosecutions are commenced against any individual or business carrying out fly tipping where there is sufficient evidence to do so. However, officer resources are limited and so cases have to be prioritised. This can mean lower level fly-tips may not be investigated as quickly as we would like and in some cases a decision may have to be made that an investigation is unlikely to lead to evidence being located or that the case will not be in the public interest to take formal enforcement action on. In cases where any investigation is minimal, the Council will still remove the fly tipping if it is on an adopted highway for which it is responsible.
- 5.8.3 The service has received an increase in complaints about the waste service due to the major service change that was implemented at the beginning of October 2017. This was the introduction of fortnightly refuse collections and weekly food waste collections. Teething issues caused disruptions in collections across the borough, but these were resolved as quickly as possible, and the number of complaints is now reducing.
- 5.8.4 Environment report that there were also a few IT issues that meant the website didn't display the correct collection information which also contributed to the increase in complaints. There are still intermittent issues which are being investigated, so that the 'look up my collection day' facility is stabilised.

## **5.9 Council Tax**

- 5.9.1 The Council Tax section has seen a significant increase in complaints during 2017 for 2 main reasons; the implementation of a single person discount review and the migration to a new online platform for all online forms.
- 5.9.2 The service is legally required to review all single person discount applications periodically however, the frequency is not prescribed. In 2017 a review was undertaken for the first time in a few years using a third party data matching company. The service received a large volume of complaints from customers wanting to know why their entitlement was being reviewed and others challenging the wording of the letter on the basis of the content being too harsh. It was important for the service to explain the potential consequences of claiming a reduction to which they were no longer entitled.
- 5.9.3 There were also some issues with the data matching whereby some data was out of date, particularly that from electoral services. In future, any reviews will be conducted later in the year, after the electoral register data has been updated.
- 5.9.4 The contract with the online web form portal provider came to an end in October 2017 and the service migrated to a new service provider from November 2017. This involved a complete redesign of the entire online service, including twenty plus online forms and a change to the e-billing platform. There were teething problems with the stability of the new online platform and some customers expressed their dissatisfaction with the new form format and lack of ability to access their online account and data. The service is continuing to work with the software provider to improve all aspects of the online customer experience.

## **5.10 Lewisham Homes**

5.10.1.1 Lewisham Homes have reported the following for 2017/18:

- They met their target for responding to 90% of complaints on time
- The number of homes that meet the Decent Homes standard has increased from 41% in 2011 to 100%
- Their Repairs Team installed kitchens and bathrooms in over 300 homes within this year
- Complaints about repairs went down from 731 in 2014/15 to 462 in 2017/18
- They improved their telephone response rates, with responses to calls up from 80% to 95%
- Satisfaction with environmental services: cleaning inside blocks satisfaction has increased from 71% to 78%;
- Since taking over grounds maintenance in 2015 satisfaction has increased from 62% to 77%
- They have introduced a wider range of social activities to around 500 older residents living in sheltered housing schemes, including a weekly fall prevention class for frequent fallers and over 65s in one of their sheltered housing schemes.

5.10.2 In 2017/18 Lewisham Homes' ambitions included:

- Increasing digital engagement with residents: 25% of their residents are now registered on the Lewisham Homes portal, an increase of 60% over the past year.
- Improving neighbourhoods through increased resident engagement: as a development on their 'Big Conversation' strategy, they are now rolling out a Smaller Conversations initiative to reach residents in hostels. They have also introduced a professional witnessing team who are on-call on Friday and Saturday nights as part of steps to reduce antisocial behaviour.
- Empowering residents: 35 residents completed the 'Improving Housing Services' course, which Lewisham Homes delivered in partnership with London Metropolitan University
- Lewisham Homes' Go On Lewisham initiative is helping residents go online; 98% of participants have said the sessions have improved their digital knowledge and skills.



## 6 Independent Adjudicator

- 6.1 The Independent Adjudicator (IA) deals with Stage 3 complaints on behalf of the Council. The IA report for the Council is attached at Appendix 1. This section summaries the IA's report and the action being taken in response to the issues raised. The report covers the period 1 April 2017 to 31 March 2018.
- 6.2 The IA received 105 complaints during the year, 23 more than 2016/17. This breaks down to 74 (70%) about the Council/ Regenter (up by 19 from last year); and 31 (30%) about Lewisham Homes (up by 4 from last year).
- 6.3 The IA has prepared a separate annual report for Lewisham Homes that deals specifically with any issues relating to them. The IA will attend their management team to present the report and the Council will monitor any actions arising from it. The number of complaints about Lewisham Homes went up from 27 to 31. The IA upheld 26% of the complaints, either in part or in full, down from 41% in 2016/17.
- 6.4 The IA responded to 91% of cases within the 30 day standard, this is an increase of 11% on the previous year.
- 6.5 21% of investigations were upheld, this is down from 41% in 2016/17.

### 6.6 Cases by directorate/partner

The table below sets out the number of Stage 3 complaints against each directorate and each partner (withdrawn/out of jurisdiction complaints in brackets)

**Table 6 – Total number of Stage 3 complaints against each directorate and each partner**

Customer Services	Resources and Regeneration	Community Services	Children and Young People	Regenter	Lewisham Homes	TOTAL
55 (14)	14 (3)	2 (2)	1	2	31 (4)	105

### 6.7 Compensation

Compensation was awarded in 14 cases including those against Lewisham Homes. The total amount of compensation paid was £7,528.70, of which £3,649.85 was for Lewisham Homes.

**Table 7 – Amount of Compensation**

	Up to and including £100	£100 - £500	More than £500	Total	
2017/18	2	9	3	14	£7,528.70
2016/17	n/a	7	6	13	£13,699.80
2015/16	2	6	10	18	£26,523.40
2014/15	n/a	13	6	20	£9,241
2013/14	4	8	4	16	£6,542
2012/13	2	8	2	12	£4,259.75
2011/12	2	9	1	12	£3,614

### 6.8 **Key issues highlighted by the IA**

- 6.8.1 The Council and Regenter generally met the IA's five day timescale for responding to enquiries, although there were exceptions and the IA had to chase. In a number of cases, the IA was not told that the proposed remedy had been implemented.

- 6.8.2 The IA reports these two problems every year. She is of the opinion that they occur because of the pressures under which officers are working, and not because of any breakdown in complaint handling, or because complaints are not taken seriously.
- 6.8.3 Timely replies to enquiries, the timely implementation of remedies and letting the IA know that recommendations have been put into action, are essential. They spare the IA and the complainant the need to chase and possibly avoid a complaint to the Ombudsman.

## **7 Local Government Ombudsman Annual Letter 2017/18**

- 7.1 An annual review letter is produced by the Local Government Ombudsman (LGO) each year. This gives a summary of statistics relating to complaints made against local authorities over the year ending 31 March 2018. A copy of the LGO's annual letter is attached at Appendix 2. The LGO's annual letter refers to difficulties in obtaining responses to complaints. However, since the new team has been established this has been addressed and performance has improved.
- 7.2 The tables in the appendix present the number of complaints and enquiries received and the decisions made about the authority during the period. In 2017/18 a total of 146 complaints and enquiries were received, an increase of 10 on 2016/17. Of the total received only 24 "detailed enquiries" were carried out, of which 16 were upheld.
- 7.3 The top three highest number of complaints were received about:
- Housing – 41 (36 in 2016/17)
  - Benefits and Tax – 26 (27 in 2016/17)
  - Education and Children's Services – 21 (28 in 2016/17)
- 7.4 There was one public report issued during the year regarding the Children and Young People's Service. The LGO's annual review letter was also critical about CYP's compliance with LGO recommendations to resolve complaints. The Executive Management Team (EMT) has responded to the LGO's concerns in relation to complaint administration in particular areas. EMT has agreed to review a monthly complaints, casework, FOI, and SAR performance report to oversee all aspects of the process.
- 7.5 The CYP Casework Team have also taken steps to improve the way that complaints are handled, and additional resources have been recruited to deal with requests from complainants to move their complaints to a higher level, increasing the chance of achieving a satisfactory outcome for the complainant.
- 7.6 The LGO provide additional information to focus the statistics more on the outcome from complaints rather than just amounts received. The LGO also provides a breakdown of "decisions made" to show how they were remedied i.e. "Advice Given", "Referred back for Local Resolution" etc. Included in this are "Complaints Remedied" which are made up of complaints remedied by the LGO or "Satisfactorily by Authority before LGO Involvement".
- 7.7 The LGO continue to publish their annual data on their website, alongside an annual review of local government complaints. The aim is to promote transparency and accountability.
- 7.8 The Council views this as a useful exercise, which affords the opportunity to reflect on the types of complaints made and consider where improvement might be made.

## **8 Achievements in 2017/18**

- 8.1 As detailed in the previous year's report, the Council implemented the casework review creating a new Corporate Complaints and Casework Team in February 2017. The new team has continued to ensure that performance remained at a satisfactory level, despite facing some challenges with staff changes, and increased volumes. Volumes increased in the majority of areas and with most case types that the team deal with. There was an increase with all Casework but particularly MP

enquiries, with 262 more received compared to the year before. Despite the high numbers, performance was either similar to the previous year, or it improved. For example, 65 more MP enquiries were received for Community Services, but performance went from 48% to 60% (the team are implementing further measures to improve this figure). There was an increase of 32 Resources & Regeneration MP enquiries, but performance went from 74% to 80%.

- 8.2 Data for CYP (Children and Young People) shows that there has been a drop in the number of cases logged against their directorate, despite a rise in all other Council directorates. There were 257 cases logged against this directorate in 2017/18 compared to 295 in 2016/17.
- 8.3 There was a noticeable drop in Stage 3 complaints for CYP, with the IA only investigating one complaint in 2017/18, a big drop from the 8 cases investigated by the IA the previous year.
- 8.4 The CYP Casework Team have dealt with fewer Local Government Ombudsman complaints during 2017/18. A total of 21 complaints were received by the LGO relating to children's services and education (28 in 2016/17). This is continued decrease from 2015/16 when 37 complaints were received.

## **9 Complaints and Casework Review- iCasework.**

- 9.1 As detailed in the 2016/17 report, the Council decided to implement a new system to administer complaints and casework. The old system was outdated and had begun to degrade, and had become unreliable for staff and Members to use.
- 9.2 During the latter part of 2017/18, the Complaints and Casework Team worked alongside the Digital Team and other stakeholders to implement an updated iCasework system. This involved extensive work with the system provider to ensure that the new system would be fully functional and ready for staff to use at the beginning of the 2018/19 financial year.
- 9.3 Prior to implementation, key complaints staff were invited to training with the system provider and asked to contribute to how the system was set up.
- 9.4 The new system was successfully implemented on 16 April 2018, and includes a portal for Members to use when submitting casework, allowing them to track their enquiries and maintain accurate records of constituent's cases.
- 9.5 A key benefit of the new system is its reporting feature. Reporting on the old system was complicated and time consuming, but the new system has the ability to provide accurate reports on volumes and performance in a fraction of the time. The team is now able to produce monthly and quarterly reports for senior management, and there is a plan to provide Members with regular reports on their casework.

## **10 Complaints and Casework Review- the new team.**

- 10.1 The 2016/17 report detailed a number of challenges that the newly formed Complaints and Casework Team faced, after the new structure was implemented in February 2017. These challenges were:
- The icasework system being out of date and in need of replacing
  - a backlog of cases
  - outstanding investigations with the Local Government Ombudsman (LGO)
  - New staff were recruited who needed training
  - Existing staff who were recruited into the new team needed to upskill to deal with enquires about services they were unfamiliar with

- 10.2 The implementation of an updated iCasework addressed the system issues. The team cleared all backlogs of complaints and casework as well as addressing all of the outstanding Ombudsman cases.
- 10.3 The team also met with the local LGO investigator in December 2017 (now the Local Government and Social Care Ombudsman) with a view to strengthen this relationship. This was successful and there is now a strong professional working relationship with the LGO's office, with a dedicated officer ensuring that responses to all enquiries made are responded to in a timely manner.
- 10.4 One of the most significant changes made as a result of the Complaints and Casework Review, was that Senior Resolutions Officers became responsible for the investigation and response to Stage 2 complaints. Despite some initial teething problems with performance, this function is now running successfully, with a dedicated officer in the team handling most of the stage 2 complaints, and nearly all responses sent within the 20 working day timeframe.
- 10.5 An indicator of this change being a success is the fact that only 21% of complaints escalated to stage 3 were upheld in 2017/18 compared to 41% in 2016/17. This indicates that the Council is getting it right at an earlier stage.
- 10.6 In order to expand the team's awareness of the services they may have been previously unfamiliar with, a number of measures were undertaken including meeting with staff in those services, and liaising with contacts who have a better knowledge of the services and who does what. There is now a good level of knowledge of all Council functions within the team, which has resulted in good quality of responses to casework and complaints.

## **11 Conclusion of Review**

- 11.1 The last 2 financial years have seen a significant increase in the number of complaints to the Council and the volume of casework. The volumes have increased from 4,308 in 2015/16 to 6,992 in 2017/18, which is a 62% increase.
- 11.2 The directorates which experienced the largest increase within the Council were Customer Services and Resources and Regeneration. As in previous years, we believe a key factor is the government's programme of austerity and the savings the Council has been forced to make as a result of this.
- 11.3 Despite the increase in volume, the number of complaints being escalated from Stage 1 to Stage 2 has not increased, and the percentage of Stage 2 complaints going to Stage 3 has reduced slightly, compared to the overall figures, which is positive.
- 11.4 The Council will continue to use the feedback it receives from complaints to improve services and address service users main areas of concern. It should also be noted that the number of complaints and casework received still only represent a very small proportion of the millions of transactions the Council has with people living, working and learning in the borough.

## **12 Legal Implications**

- 12.1 There are no specific legal implications directly arising from this report aside from noting that it is recommended good practice from the Local Government's Ombudsman's Office to make full and specific reference to handling complaints within a management agreement entered into under section 27 of the Housing Act 1985.
- 12.2 Given the subject and nature of this report, it is relevant here to note that the Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 12.3 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 12.4 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 12.5 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 12.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
  2. Meeting the equality duty in policy and decision-making
  3. Engagement and the equality duty
  4. Equality objectives and the equality duty
  5. Equality information and the equality duty
- 12.7 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and whom they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information/resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

### **13 Financial Implications**

- 13.1 There are no direct financial implications arising from this report. The Council has no specific budgets for compensation payments, so the costs are absorbed by the relevant service as awarded.

### **14 Crime and Disorder Implications**

- 14.1 There are no crime and disorder implications arising from this report.

### **15 Equalities Implications**

- 15.1 The iCasework system enables the Council to collect equalities monitoring information. However, it is not a requirement for customers to disclose these details. As a result, in the main, equalities data is only available in a small percentage of cases.

- 15.2 In terms of ethnicity, data was only provided in only 2% of cases. This 2% suggests the majority of complainants are White British.
- 15.3 In regard to gender, the data recorded confirms that 42% of complainants were female, 26% were male. In the remaining 32% of cases, this information was not given or recorded.
- 15.4 In over 99% of cases, the customer did not confirm either way whether or not they consider themselves to have a disability. In less than 1% of cases the customer confirmed that they were disabled.
- 15.5 Religion data was not given, or not recorded in 100% of cases.
- 15.6 The customer's sexuality was also not given, or not recorded in 100% of cases.
- 15.7 As the above equalities data is not statistically significant, the service will work to promote the completion of this section, so future data is more informative.

## **16 Environmental Implications**

- 16.1 There are no environmental implications arising from this report.

## **17 Background Documents and Report Author**

- 17.1 There are no background documents to this report.
- 17.2 If you would like more information on this report please contact Hanna Gibson, Complaints & Casework Manager on 020 8314 6097 or Georgina Chambers, Corporate Information Casework and Complaints manager on 020 8314 7956.

## Review of Stage Three Complaints 2017-18 Lewisham Council and Regenter

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Linzi Banks Independent Adjudicator  
July 2018

The Independent Adjudicator (IA) deals with complaints at stage three of the Council's complaints process and provides a free, independent and impartial service. The IA considers complaints about the administrative actions of the Council and its partners, Lewisham Homes and Regenter. She cannot question what actions these organisations have taken simply because someone does not agree with them. But, if she finds something has gone wrong, such as poor service, service failure, delay or bad advice and that a person has suffered as a result, the IA aims to get it put right by recommending a suitable remedy.

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## At a glance\*

\* Includes Lewisham Homes

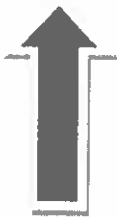
**105 complaints received\* – up from 82 in 2016/17**

**21% investigations upheld\* – down from 41% in 2016/17**

**16 recommendations to put things right\***

### Significant changes on previous year (complaints received)

**CT**



**Planning**



**CYP**



## Introduction

This report publishes the complaint statistics of the Independent Adjudicator (IA) for the London Borough of Lewisham and its partner, Regenter, for the year ending 31 March 2018. In publishing the statistics, available in a data table at the end of this report, I aim to highlight lessons learned about the authorities' performance and their complaint handling arrangements, so that these might then be fed back into service improvement.

I have written a separate report about Lewisham Homes, though the figures for all authorities are included in some instances\* and attached, and some crossover issues are mentioned.

The headline messages from this year's statistics are:

- I received 105 complaints\* – up from 82 last year – and comprising 74 about the Council and Regenter (an increase of 19) and 31 about Lewisham Homes (an increase of four).
- I upheld 21% of the complaints I investigated\*, down from 41% in 2016/17.

- The area most complained about was Customer Services (55 complaints – an increase of 27 from last year).
- The biggest drop in complaints was in Children and Young People – down from 10 to one.

I know, however, that the numbers alone do not tell everything about the attitude towards complaints and how they are responded to.

Arguably, of more importance, is to understand the impact those complaints have on people, and to learn the lessons from those complaints to improve the experience for others.

In line with my previous practice, I publish information about the recommendations I make to put things right when people have suffered. I made 16 separate recommendations to remedy injustice. These recommendations include actions for the authorities to take to remedy injustice for individuals, and to prevent injustice for others by improving practice.

My investigations can also provide the

authorities with the reassurance that they have carried out a fair investigation of a complaint, and satisfactorily offered to put things right, before the person decided to come to me.

The IA is the final stage of the authorities' complaints process – the person affected must have gone through the other stages before coming to me for an independent review of the case. So, in relation to the many thousands of exchanges happening daily between the authorities and the people in their areas, the number of stage three complaints is a tiny proportion of those exchanges; however, each one represents a problem that was not put right locally, or an experience that drove the person to pursue their complaint with me. Attached to this report is a Digest of Cases giving examples of such problems and experiences.

## Making a difference: remedying injustice

Experience suggests that the most effective and timely way to resolve a complaint is for it to be put right at the local level before the issue escalates to me.

However, my casework shows that a number of complaints are not resolved satisfactorily locally, leaving people to ask me for an independent review. I carried out 49 detailed investigations, and upheld 18% of these (nine in number).

I found fault in two homelessness complaints; and I upheld one complaint each in council tax, planning, benefits, refuse collection, temporary accommodation, repairs and complaint administration.

I class a complaint as upheld or partly upheld when I find some fault in the way the Council or Regenter has acted. This includes complaints where these authorities have acknowledged fault in their local investigation and offered to take action to put it right, but the

person still wanted an independent review by me.

## Types of remedy

If I decide the Council or Regenter have acted with fault, and the fault caused an injustice, I will make recommendations to remedy the fault. My recommendations are designed to place people back in the position they were in before the fault happened.

So, for example, this year, in a complaint about the Nationality Checking Service, I proposed that officers should refund the £83 application checking fee, and pay compensation equal to the Home Office fees (and this avoided a formal investigation by me); in a complaint about delay in dealing with a benefits appeal, I proposed prompt referral to the First Tier Tribunal; and, in a complaint about the time taken to install a stopcock, I proposed installation as a matter of urgency.

In many complaints, I will also recommend an apology if this has not already been given.

If the injustice cannot be remedied through a

specific action, I may recommend a financial payment.

So, in a planning enforcement complaint, I proposed the payment of £250 straightaway, and additional compensation equal to the loss in value of the complainant's property (as determined by the District Valuer); in a joint complaint with Lewisham Homes, I suggested that £2700 compensation – to be split equally between both authorities – was fair and reasonable; and in a homelessness case, I felt that £200 was due to cover the stress and frustration that the complainant had experienced unnecessarily.

## Improving services

I always consider whether the issues uncovered in an investigation may affect other local people in a similar manner, and whether I can make practical recommendations to avoid that happening. So, for example, this year, I recommended that the Council should:

- Work with Lewisham Homes to review contact, liaison and

- updating arrangements when a tenant is moved from temporary accommodation.
- Work with Lewisham Homes to determine what action, if any, can be taken to ensure that Council Tax is always aware of changes in a tenant's circumstances.
- Ensure that information given to one service is shared with another, where appropriate: noting that it is my view that contact with one part of the Council effectively constitutes contact with all other services that apply.
- Review the wording on its bills to advise council tax payers how long any exemption will last and when it will expire.
- Consider filing redacted objections to a planning application on the Planning Portal.
- Consider showing the number of objections to a planning application on the Planning Portal.
- Ensure that an officer not previously connected to a complaint investigates, and responds to, it.

- Provide, and adhere to, timescales for responding to all complaints.

## Complaint numbers and commentary

Complaints about the Council and Regenter have gone up this year from 55 to 74.

The number of complaints about Customer Services went up by 27 (from 28 to 55), as did complaints about Resources and Regeneration (11 to 14), and Community Services (one to two).

Complaints about Children and Young People (CYP) fell from 10 to one, and complaints about Regenter fell from five to two.

Though the increase this year is notable; though it takes stage three complaints over a 100 for the first time; and, though any increase is regrettable, I am not unduly concerned as the numbers are tiny, and they will invariably fluctuate from year to year. What I will say, however, is that I am most pleased with the year on year decrease in CYP complaints.

I will also say that I have noted the following:

- A number of residents, in council tax complaints particularly, have told me that they are suffering financially; they cannot afford the tax; and, they often cannot meet their financial commitments. They come to me to ensure that they have been treated properly by the Council.
- Some residents in housing complaints have said that they are so desperate to be re-housed, they will do anything to achieve it, including using the complaints process.
- Quite a lot of residents have complained about the absence of services or changed priorities in, for example, fly tipping, tree management and refuse collection.
- More planning complaints are coming through, I think, because developers are building on all available plots, and residents feel aggrieved and badly affected.
- More complaints have involved both the Council and Lewisham Homes.
- Several complaints have been about more than one issue.
- Twenty complaints have been outside of my jurisdiction.

I will say too that the upheld rate for complaints has gone down dramatically this year – from 37 to 21 per cent - though I find no particular cause for this, other than that it might be because the Council is now more readily proposing remedies to complaints at the time that they come to me, thus avoiding a detailed investigation and an adverse finding.

I would recommend, however, that, if a remedy is considered appropriate in response to a stage three complaint, officers might look at settling it much earlier on, noting that, in some instances, there continues to be a hesitancy towards doing so.

- So, in a council tax complaint, officers offered to reassess the complainant's entitlement to council tax support; to bill her accordingly, and make an arrangement for the repayment of any monies owed; to cancel bailiff action; and to write off all

legal costs and bailiffs' fees.

- In a refuse complaint, they proposed monitoring the collection by way of photographing the empty bins; reporting any problems directly to the senior officer; swift re-collections; speaking to the crew and apologising for their actions; instructing the crew to take the bin to the truck for emptying; and offering a visit by a senior officer if the problems continued.
- And, in a complaint about the administration of a business rates account, the Council reviewed the account and determined that Business Rates Relief should be awarded and no rates were due.

The nine complaints that I upheld, or partly upheld, justified my involvement, I believe, and, crucially, they justified an adverse finding. I hope to see a continuing decrease in such findings, and, more importantly, a decrease in the number of stage three complaints. But, looking at these findings, they suggest that, rightly, the more complex cases are

coming to me; the cases where there are serious failings; and the cases where those failings have had a significant impact on the complainant.

## Complaint handling:

### General

The replies to my enquiries were generally thorough.

The Council and Regenter generally met the five days timescale for responding to my enquiries, although there were exceptions and I was forced to chase.

In a number of cases, I was not told that the remedy had been implemented.

I report these two problems every year. I think that they occur because of the pressures under which officers are working, and not because of any breakdown in the complaint handling process, or because complaints are not taken seriously. I do stress, again, however, that timely replies to my enquiries; the timely implementation of remedies; and letting me know that my recommendations have been put into action, are essential: sparing me and the complainant the need to chase, and, possibly, avoiding a complaint to the Ombudsmen.

## Planning

I had serious concerns about Planning this year: I often had to chase the replies to my enquiries; and, in one case, there was a breach of the IA protocol.

This is not to say that the replies - when received from Planning - were poor - quite the opposite; and, when I spoke to officers, they were most helpful and, in some cases, suggested what I considered was a positive way of addressing the complaint.

Notwithstanding, it seems to me that, because a complaint has already been through two stages before it reaches me, the information on it should be readily available to respond to any stage three; and, for this reason, I think that it should be possible to meet my five days target.

In the case where there was a breach of the IA protocol, I considered that the injustice caused by the Council's failing should be remedied by the payment of compensation equal to the loss in value of the complainant's home, with that loss assessed by the District Valuer. This is a long established Local

Government Ombudsman (LGO) remedy in planning complaints; it is a remedy that was totally appropriate here - where the Council had included an unenforceable condition to a planning permission affecting the complainant's amenity; and, it was subsequently approved by the LGO when the complaint went to him.

As for the breach of the IA protocol, this was addressed by senior officers to my satisfaction.

## Stage one and two

In the replies to a number of complaints - at stage one and stage two - officers have explained that a lack of action, or, indeed, a failing are the result of the Council having fewer resources.

Although it is undoubtedly true that all authorities are facing challenging times, and it is not unreasonable, in my view, to manage residents' expectations about what is and what is not possible - indeed, I do so myself - I would not want to see this used as a blanket excuse for any failings.

Rather, I would expect those failings to be investigated; I would expect a remedy if appropriate – especially a practical remedy; and I would expect a service improvement if this was required, recognising, of course, that this must take into account the resources available.

Early on in the year, in some replies to planning complaints at stage two, I saw a lack of officer confidence in dealing with them, and some mistakes were made as a result. I suggested that officers might ask Planners for a brief oversight. I also offered to provide my insight. I am pleased to report that the replies are now much improved.



## My performance and comments

I have:

- Responded to 91% of all complaints about the Council and Regenter within 30 days (target 90%).
- Had no decisions overturned on complaints referred to the LGO or Housing Ombudsman (HO).
- Met Lewisham Homes to discuss complaint handling, complaint prevention, and complaint training.
- Given advice on the appointment of the IA to work on Grenfell complaints at the Royal Borough of Kensington and Chelsea.
- Discussed the possibility of an IA role within a Housing Association in Surrey.
- Met with a small housing provider in North London to give advice on dealing with persistent complainants.
- Met even more complainants than in previous years.
- Urged officers to spot opportunities to remedy a complaint and to discuss such remedies with me, or seek guidance from

publications issued by the LGO and Housing Ombudsman.

- Encouraged well written complaint replies and apologies.
- Continued with my quarterly digest of cases to inform officers of the kinds of complaints I uphold, the remedies I suggest and the lessons that can be learned.
- Continued with my regular newsletter for senior managers to highlight any concerns and suggested service improvements.
- Responded to the increasing pressures that officers face in their day to day work, and especially in responding to my enquiries, by trying to reach a view on the information available already, or asking for simple facts, or organising a meeting where this is quicker and easier.

I mention the appointment of IAs elsewhere. I think that authorities are looking for more effective and imaginative ways of dealing with complaints. I also think that they want to ensure that complex complaint handling is done by someone with

local sympathies, but who also provides independence and accountability too. In addition, authorities, understandably, want to avoid the high cost of complaints going to the Ombudsmen.

In my experience, the IA role in Lewisham provides these benefits, and I think that this is why Kensington and Chelsea have used it as the model for their IA. The Housing Association is considering this model too. I am incredibly flattered that they approached me for my advice. I am also incredibly proud that I fill this role for the London Borough of Lewisham, for Lewisham Homes and for Regenter.

I welcome this opportunity to give the Council and Regenter my reflections about the complaints I have dealt with over the past year. I hope that they find the information and assessment provided useful when seeking improvements to their services.

I would like to thank Rachael Phillips and Joel Fowler and officers generally, for the help and support they have given me this year.



# REVIEW OF STAGE THREE COMPLAINTS 2017 – 2018 LEWISHAM COUNCIL AND REGENERATOR

## Total cases received/open and determined: 1/4/17 – 31/3/18

TOTAL CASES RECEIVED 1/4/17– 31/3/18	NO. OF CASES CARRIED OVER FROM 2018/17	NO. OF CASES DETERMINED	NO. OF CASES WITHDRAWN/ OUTSIDE JURISDICTION	NO. OF CASES OPEN AS OF 31/3/18
*105	4	76	23	10

\*Includes Lewisham Homes

## Number of cases determined

TOTAL CASES DETERMINED	UPHELD IN FULL	UPHELD IN PART	NOT UPHELD
*76	5 (7%)	11 (14%)	60 (79%)

\*Includes Lewisham Homes

## Time taken by the IA to resolve : target 90% of cases to be resolved within 30 working days

30 days and below	31 - 50 days	More than 50 days
*69 (91%)	**5 (7%)	**2 (3%)

\*Includes Lewisham Homes

\*\*Five of these complaints were particularly complex and required significant investigation. In one complaint, the complainant asked for extra time to send in more information and this delayed the IA's decision; and, in another, the complainants wanted a meeting that took some time to organise.

## Number of cases received: a comparison

The Council and Regenter	Lewisham Homes	Total cases received
74 (70%)	31 (30%)	*105

\*Includes 23 complaints that were withdrawn or considered to be outside the IA's jurisdiction

## Cases received by Council directorate/partner

Total number of stage three complaints against each directorate and each partner with the number of withdrawn/out of jurisdiction complaints in brackets (23)

Customer Services	Resources and Regeneration	Community Services	Children and Young People	Regenter	Lewisham Homes	TOTAL
55 (14)	14 (3)	2 (2)	1	2	31 (4)	105

## Cases determined by subject

Number of complaints determined by subject – does not include those that were withdrawn/considered to be out of jurisdiction: number upheld in full or in part in brackets

	All Council/Partners*	Council and Regenter	Lewisham Homes
Council Tax	15 (1)	15 (1)	
Planning	7 (1)	7 (1)	
Housing allocations	6	6	
HOC	5 (2)	5 (2)	
Repairs	5 (1)		5 (1)
ASB	5 (2)		5 (2)

Major works	4 (1)		4
Benefits	4 (1)	4 (1)	
Leaseholders	3 (1)		3 (1)
Housing management	3 (1)		3 (1)
Temporary accommodation	2 (1)		2 (1)
Decent Homes	2 (1)		2 (1)
Refuse collection	2 (1)	2 (1)	
Flytipping	1	1	
Street lighting	1	1	
Temporary accommodation	1 (1)	1 (1)	
Leaseholders (RB3)	1	1	
Damp	1	1	
Damp	1		1
Repairs (RB3)	1 (1)	1 (1)	
Housing allocations	1		1
Property management	1		1
Property management	1	1	
Blue Badge	1	1	
Parking	1	1	
Complaint administration	1 (1)	1 (1)	
<b>Total for all Council</b>	<b>76 (16)</b>	<b>49 (9)</b>	<b>27 (7)</b>

*\*Some complaints raised more than one issue but were categorised according to the main issue*

#### **Compensation awarded in 14 cases including those against Lewisham Homes\***

Up to and including £100	£101 - £500	£501 and above	TOTAL – COUNCIL/RB3	TOTAL INC LH
	£1335	2543.85	£3878.85	£ 7528.70**

*\*Lewisham Homes – 8 cases - £3649.85*

*\*\*In two cases – one from 2016/17 - there was joint responsibility for the maladministration between the Council and Lewisham Homes: the IA, therefore, split the compensation 50:50, offsetting any money owed to the authorities (though the gross figures are shown). In one case against the Council, the IA proposed the immediate payment of compensation, together with a further £500 subject to the complainant agreeing to it in lieu of a practical remedy: the £500 is not reflected in the figures above. In a further case against the Council, a financial remedy could not be calculated pending an appeal: the complaint is not reflected in the figures.*

Local Government &  
Social Care  
**OMBUDSMAN**

18 July 2018

*By email*

Ian Thomas  
Chief Executive  
London Borough of Lewisham

Dear Ian Thomas,

**Annual Review letter 2018**

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

**Complaint statistics**

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

We were pleased and interested to hear about the changes you had or were planning to make to the way you deal with complaints when one of my Assistant Ombudsmen met with senior staff in December 2017 to discuss the annual letter we sent to you last year. Last

year's letter highlighted issues with delayed or poor responses and it was encouraging to hear action was being taken to address the issues.

We appreciate and recognise changes in practice and culture can take time to become fully embedded and incorporated. But, we do continue to have concerns about responses to enquiries and delay in complying with remedies. We have seen instances where the Council has refused to deal with complaints we consider premature or answer questions about why correspondence has been ignored. We have, on occasions had to repeatedly chase for a full response to the enquiries we have made. This is frustrating for all involved and is not a good use of either our resources or the Council's own.

We have also issued a report during the year about the Council's failure to complete assessments on a complainant's two children; failure to provide copies of care plans and a flawed decision to reduce the care package for both children. We recommended an apology, a financial payment and greater transparency in the way a Care Package Panel reaches its decisions. We also asked the Council to establish if one of the children had missed the opportunity for respite care, and if so, provide an additional remedy for this.

After the report was issued, we had to chase the Council on several occasions to provide evidence of compliance. This was unfortunate as it became clear action was being taken. It was just the necessary evidence to confirm this was not provided in a timely manner. Once we had received the information requested, we were able to confirm we were satisfied with the Council's actions and response to the report and formally close the case.

#### **Future development of annual review letters**

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new [corporate strategy](#) for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will be seeking views from councils on the future format of our annual letters early next year.

#### **Supporting local scrutiny**

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at [www.lgo.org.uk/scrutiny](http://www.lgo.org.uk/scrutiny). I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

#### **Learning from complaints to improve services**

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the [reports](#) and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists

work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

#### **Complaint handling training**

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

Yours sincerely,



**Michael King**  
Local Government and Social Care Ombudsman  
Chair, Commission for Local Administration in England

**Local Authority Report:** London Borough of Lewisham  
**For the Period Ending:** 31/03/2018

For further information on how to interpret our statistics, please visit our website:  
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

## Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
17	26	2	21	18	7	41	11	3	146

## Decisions made

Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Detailed Investigations		Total
				Not Upheld	Upheld	
5	9	73	30	8	16	141
<b>Notes</b> Our uphold rate is calculated in relation to the total number of detailed investigations. The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.				Complaints Remedied		67%
				by LGO	12	



# Agenda Item 4

<b>Committee</b>	<b>STANDARDS COMMITTEE</b>	<b>Item No</b>	<b>4</b>
<b>Report Title</b>	<b>ANNUAL REVIEW OF COMPLAINTS MADE UNDER THE THE COUNCIL'S WHISTLEBLOWING POLICY</b>		
<b>Ward</b>	n/a		
<b>Contributors</b>	<b>HEAD OF LAW</b>		
<b>Class</b>	<b>Open</b>	<b>Date</b>	<b>22 November 2018</b>

## 1 **Summary**

This report sets out the referrals made under the Council's whistleblowing policy since the last annual review in October 2017 and asks the Committee whether it wishes to amend the procedure in any way.

## 2 **Recommendations**

- 2.1 To note the referrals under the Council's whistleblowing policy set out in this report and the action taken in relation to them.
- 2.2 To consider whether any changes to the current whistleblowing procedure are appropriate.

## 3 **Background**

- 3.1 A copy of the Council's current whistleblowing policy appears at Appendix 1. There has been a whistleblowing policy in place for several years and it has been reviewed by this Committee on an annual basis since its inception. The purpose of the policy is to provide a means by which complaints of malpractice or wrongdoing can be raised by those who feel that other avenues for raising such issues are inappropriate, whether because they fear repercussions or for some other reason. As members of the Committee will see, the policy confirms that so far as possible, those raising complaints under the whistleblowing policy will be treated confidentially if the complainant wishes. Members will also note that complaints may be raised in relation to the actions of Councillors or employees.
- 3.2 The whistleblowing policy was fundamentally reviewed by this Committee most recently in October 2015. Some of the key changes agreed then were that the Monitoring Officer or her deputy should personally conduct an initial review of all complaints, a requirement that complainants are regularly informed of progress where an investigation is not likely to be completed within the expected 28 day period and the refinement of a more formalised register of complaints to facilitate closer monitoring of the progress of investigations.

3.3 Subsequent to the review, the Monitoring Officer arranged with the then Head of Communications for additional publicity of the revised policy to be undertaken. The revised whistleblowing policy is highlighted on the Council's website and on the Council's intranet. Additionally the Head of Law/Monitoring Officer has delivered a briefing on the revised procedure to the Council's Executive Management Team and training to all service heads on the revised policy. It is particularly important that they be especially aware of the policy and procedure as they (and/or Executive Directors) may be called on to investigate on behalf of the Monitoring Officer. Referrals under the policy are made to the Head of Law as the Council's Monitoring Officer. Investigations are either conducted personally by the Head of Law or referred by her for investigation to another senior officer with a report back to her.

#### **4 Cases in progress since October 2017**

4.1 There have been 13 further referrals since the last review.

##### **4.2 Case O**

A complainant raised a complaint under the Member Code of Conduct in relation to being wrongly excluded from the Coordinating Committee of a local Neighbourhood Assembly. It took several months of correspondence with the complainant to refine his particular complaints and identify precisely who it was against. The matter was referred to the Executive Director for Customer Services who investigated and reported on it. The Monitoring Officer referred that report to the Executive Director Community Services for action to be taken further to the report of the Executive Director for Customer Services. This was reported to the Standards Committee in the course of the last review of the Member Code of Conduct.

The complainant subsequently complained about delay in this complaint being resolved.

The Monitoring Officer responded to the complainant and confirmed that the complaint was thoroughly investigated and that of necessity the matter took a long time to be properly responded to. Once the nature of the complaint had been clarified, the investigation was completed over a period of four months. It required personal interviews to be undertaken by the Executive Director for Customer Services with the complainant, a councillor and several officers.

The matter is now concluded.

##### **4.3 Case P**

In February 2018, this complaint was raised by a contractor in relation to the behaviour of a member of management of the Council's Technology and Transformation Team. The complainant raised issues of lax management of

that Team and alleged a waste of Council funds on Information Technology projects.

The Monitoring Officer met with the complainant at length to clarify the complaint and engaged in lengthy correspondence to ascertain the specific allegation being made. The matter was then referred to the Head of Crime Reduction and Supporting People to investigate. She examined very large quantities of documents, interviewed twelve people and prepared a detailed report which she referred to the Monitoring Officer. The Monitoring Officer referred the report back to the Head of Crime Reduction and Supporting People for clarification on a number of points.

On receipt of such clarification and the final investigation report, the Monitoring Officer wrote to the Executive Director for Customer Services recommending that the Technology Transformation programme be reviewed and suspended pending that review. That review is ongoing. The Monitoring Officer also recommended that the Executive Director for Customer Services consider whether disciplinary action was required in respect of the member of staff against whom the complaint was made.

The initial recommendation was accepted and the programme suspended. The second recommendation proved unnecessary as the member of staff concerned left the Council's employment.

#### 4.4 **Case Q**

In April 2018, a referral was received from a member of the public about alleged inaction by the Council in relation to an unregulated tenancy. It was raised under the Council's Whistleblowing Procedure and the Monitoring Officer referred it to the Council's Corporate Complaints Team for response as it was a complaint about service provision.

The matter was subsequently closed by the Corporate Complaint Team and was concluded.

#### 4.5 **Case R**

On 23<sup>rd</sup> April, a complaint was received about the opening times at Downham Swimming Pool and specifically access for child swimming. The Monitoring Officer acknowledged the complaint and referred it to the relevant Service Manager. On investigation the Service Manager wrote an apology to the complainant and offered five free family swimming sessions. The matter was concluded on 4<sup>th</sup> May 2018.

This is a matter raised under the Whistleblowing Procedures which should properly have been raised as a service complaint under the Council's complaints procedures but was directed to the appropriate process by the Monitoring Officer.

#### 4.6 **Case S**

An anonymous complaint was received in February 2018 by the Monitoring Officer, raising allegations in relation to the head teacher of a Lewisham maintained school. The Monitoring Officer referred the matter to the Executive Director, Children and Young People, who referred the complaint to the Chair of Governors at the school.

The school subsequently sought Human Resource advice and set clear standards for the behaviour of the staff member concerned. As this is a school related issue, decisions as to the appropriate action, if any, are for the governing body.

#### 4.7 **Case T**

In late March 2018, a complaint was received from a member of the public who was in dispute with a fellow director of a private company. The fellow director is also a Council employee. The complainant and the director complained about were in financial dispute and were both represented by solicitors. Initially the specifics of the complaint were unclear. Consequently the Monitoring Officer had a long conversation with the complainant and in the course of that conversation the complainant alleged long term benefit fraud by the fellow director, and failure by them to declare interests under the Council's Employee Code of Conduct.

The Monitoring Officer caused investigations at Companies House to be carried out in relation to the Council employee and it transpired that the person had resigned from the private company several months before the complaint was received. The matter was also referred to the Council's Special Investigations to conduct an investigation.

Special investigations reported that there was no breach and no evidence of fraud against the Council. The Monitoring Officer advised the complainant that the Council's investigation revealed no record of fraud, and she also advised the complainant to consider approaching the police if they wished to continue to pursue the allegation that any other body had been defrauded.

#### 4.8 **Case U**

A complaint was received from two complainants in relation to the proposed development at Beckenham Place Park. The complaint was very lengthy ( 9 pages). The Monitoring Officer referred the complaint to the Service Group Manager, Capital Programmes, who carried out a very thorough and detailed investigation. He interviewed the complaints and looked at voluminous documentation. He did not uphold the complaint. The Monitoring Officer reported the findings of the investigation to the complainants.

The complainants were dissatisfied and then immediately referred their complaint to the Chief Executive who responded that the complainants should pursue their complaint via the Council's Corporate Complaints Procedure. In accordance with that advice the complainants pursued their complaint under the Council's Corporate Complaints Procedures, such complaint being escalated to the Independent Adjudicator.

The Monitoring Officer has very recently heard from the Independent Adjudicator who confirmed in November 2018 that the complaints have not been upheld.

#### 4.9 **Case V**

In April 2018, a complaint was brought under the Council's Whistleblowing Procedure in relation to matters similar to those considered at Case U above.

This complaint was also referred to the Service Group Manager, Capital Programmes, who after conducting a very thorough investigation did not uphold the complaint. The complainant subsequently referred her complaints under the Council's Corporate Complaints Procedure. The Council's Independent Adjudicator did not uphold the complaint.

#### 4.10 **Case W**

On 15<sup>th</sup> October, an anonymous complaint was received by the Monitoring Officer alleging that placements were being made from Lewisham Hospital without social work or financial assessment. On the same day, the Monitoring Officer referred the matter to the Head of Corporate Resources.

The matter is currently ongoing.

#### 4.11 **Case X**

On 5<sup>th</sup> November, an anonymous complaint was raised via a councillor in relation to allegations of unfair practices with contractors. The Monitoring Officer has acknowledge the complaint and has referred the matter to the Head of Corporate Resource for investigation.

The matter is currently under investigation.

#### 4.12 **Case Y**

On 8<sup>th</sup> November, a complaint was received by the Monitoring Officer from a resident alleging improper use of a Council refuse lorry. The complaint has been acknowledged and the matter referred by the Monitoring Officer to the Head of Corporate Resources.

The matter is currently ongoing.

#### 4.13 **Case Z**

On 12<sup>th</sup> November, the Monitoring Officer received complaint, forwarded by a councillor, alleging improper activity by a member and senior officers concerning recent developments relating to the Council's Chief Executive.

The Monitoring Officer has acknowledged receipt. This matter is currently ongoing.

#### 4.14 **Case AA**

An anonymous complaint referred initially to the Chief Executive and referred to the Monitoring Officer in November 2018, making allegations of a fraudulent statement in relation to ownership of land reputedly affecting planning permission.

The matter is currently under investigation.

### 5. **Review of the Policy and Procedure**

Generally, officers are of the view that the policy and procedure is fit for purpose. Investigations are conducted under it and findings made, on occasion with recommendations for amending practice. The number of referrals this year alone demonstrates that people are aware of it and are using it. However, officers are not complacent about the possibility always for improvement and would welcome any comments which members of the Standards Committee may have for changes to it.

### 6. **Financial Implications**

There are no specific financial implications arising from this report.

### 7. **Legal Implications**

7.1 The existence and application of the Council's whistleblowing procedure is consistent with the Council's overall fiduciary duty to exercise proper custodianship of the Council's funds and assets.

7.2 The promotion of the Code is also consistent with the Council's duty under Section 27 Localism Act 2011 to promote the highest standards of conduct by its members.

7.3 The Public Interest Disclosure Act 1998 affords certain protection to employees who blow the whistle on wrongdoing, for example by providing for dismissal as a result of doing so to be unfair, giving rise to compensation and possible reinstatement.

- 7.4 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.5 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 7.6 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 8.5 above.
- 7.7 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 7.8 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

7.9 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

7.10 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

7.11 A whistleblowing policy which protects the whistleblower in so far as possible probably encourages those who are less confident in dealing with bureaucracy to come forward if they suspect wrongdoing.

## **8. Crime and Disorder**

Section 17 of the Crime and Disorder Act 1998 requires the Council when it exercises its functions to have regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The promotion of a whistleblowing policy provides a conduit to bring any allegation of wrongdoing to the attention of the Council for investigation and if appropriate to the attention of the police.

## **9. Best Value**

Under S3 Local Government Act 1999, the Council is under a best value duty to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. It must have regard to this duty in making decisions in relation to this report.

## **10. Environmental Implications**

Section 40 of the Natural Environment and Rural Communities Act 2006 states that: 'every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. No such implications have been identified in relation to the reductions proposals.



**11. Integration with health**

Members are reminded that provisions under the Health and Social Care Act 2012 require local authorities in the exercise of their functions to have regard to the need to integrate their services with health.

**12. Conclusion**

Members are asked to note the referrals under the existing policy and to advise whether they are of the view that any changes ought to be made to the existing policy appearing at Appendix 1.

For further information about this report please **contact Kath Nicholson**, Head of Law on 0208 314 7648

**WHISTLEBLOWING POLICY OCTOBER 2017****1. INTRODUCTION**

- 1.1 The Council is committed to openness, probity and full accountability for the services it provides. It seeks to achieve the highest standards of conduct and has in place detailed rules and procedures to ensure such standards are observed. However, sometimes malpractice or wrongdoing may occur. The Council is not prepared to tolerate any malpractice or wrongdoing and this policy is intended to be a clear and unequivocal statement that whenever malpractice or wrongdoing by the Council, its employees, contractors or suppliers is reported, it will promptly investigate. If malpractice or wrongdoing has occurred, the Council will take appropriate action to rectify, if possible, and investigate means of preventing it in future.
- 1.2 This policy is one of a number of corporate policies <sup>1</sup> which together demonstrate the Council's commitment to the prevention of malpractice in public life. Those documents can be found on the Council's website.

**2. Principles**

- 2.1 The overriding principle underpinning this policy and its implementation is that the Council will act fairly and in the public interest.

**3. Aims**

- 3.1 This policy aims to encourage people to feel confident to come forward with serious concerns
- to ensure that those concerns are properly and promptly investigated;
  - where concerns are well founded that appropriate action is taken; and
  - that feedback is given to the whistleblower about the outcome of the investigation.

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<sup>1</sup> **Employee Code of Conduct** –

<http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/Documents/EmployeeCodeConduct.pdf> **Member Code of Conduct** –

<http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/Pages/council-ethical-standards.aspx> **Anti-Fraud and Corruption** -

<http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/Pages/Report-fraud.aspx>

#### **4. Scope**

4.1 This whistleblowing policy is intended to cover major concerns that fall outside the scope of other procedures. It is intended that the whistleblowing policy be a supplement to and not a substitute for other avenues through which complaints or matters of genuine concern may be raised. Examples of the issues which it might be appropriate to raise through the whistleblowing policy include:

- Conduct that is a criminal offence or a breach of law
- Disclosures relating to miscarriage of justice
- Health & safety risks to the public and/or employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud or corruption
- Sexual or physical abuse of clients, or
- Other unethical conduct

4.2 Concerns may also be raised under this whistleblowing policy where the nature of an allegation means that it would not be appropriate to use those other avenues of complaint, for example, where the allegation relates to a more senior officer, or the whistleblower fears reprisals should they make a complaint through other channels.

#### **5. Grievance Procedure**

5.1 There are existing procedures to enable employees to lodge a grievance relating to their own employment, including allegations of bullying, harassment, or breach of the Council's equal opportunities policy. Disclosures relating to an employee's own contract of employment will not normally be investigated under this policy, unless there are compelling public interest reasons to do so.

#### **6. Complaints about the conduct of Council Members**

6.1 Complaints about malpractice/wrongdoing against Council members will be handled in accordance with the Council's procedure for handling complaints of breach of the Council's Member Code of Conduct.

#### **7. Making a Complaint**

7.1 Anyone may make a complaint under this policy, including councillors, employees, and members of the public. Anyone considering making a complaint under this policy should first consider whether another avenue to raise the complaint is more appropriate. If so, they are urged to use it. Details of other avenues for complaint are set out in paragraph xx below. If none of these avenues is appropriate, then concerns should be raised with the Head of Law who is the Council's whistleblowing officer. Concerns may be raised verbally or in writing.

- 7.2 Anyone making a written report is invited to mark the envelope “to be opened by addressee only” and to set out the background and history of the concern, giving relevant dates. Whistleblowers should also set out the reason why they are particularly concerned about the situation.
- 7.3 The earlier a concern is expressed, the easier it is to take action.
- 7.4 Whistleblowers are not expected to prove the truth of an allegation. However, they will need to demonstrate to the Head of Law that there are reasonable grounds for the concern.
- 7.5 The Head of Law will provide advice/guidance on how to pursue a matter of concern under the whistleblowing policy to anyone who asks and how to do so.

## **8. The Council’s response**

- 8.1 The Head of Law will acknowledge in writing any complaint brought to her attention and record the complaint in a register kept specially for the purpose.
- 8.2 The Head of Law, or in her absence her deputy, will make an initial assessment of the complaint to decide whether an investigation ought to take place and if so, how. This initial consideration will allow the Council to decide on the appropriate method of enquiry and to ensure that resources are not wasted where investigation would not be in the public interest.
- 8.3 Unless the issue is raised anonymously, then the Head of Law will generally interview the whistleblower as part of this initial assessment.
- 8.4 Once this initial assessment is complete, the Head of Law will write to the whistleblower to inform them of the outcome of that assessment. If an investigation is to ensue, then the Head of Law will inform the whistleblower of that fact and inform them who will be conducting the investigation (either the Head of Law personally, or an investigating officer nominated by her to do so).
- 8.5 The Head of Law will inform the whistleblower that the investigation should normally be completed within 28 days, though this will depend upon the nature of the complaint and its complexity. If it proves not to be possible, the investigating officer will write to the whistleblower before expiry of that 28 days to give an estimated time for completion of the investigation. In any event, the investigating officer will inform the whistleblower of progress of the investigation every 28 days. Copies of this correspondence from the investigating officer to the whistleblower will also be sent to the Monitoring Officer and details entered in the register.

- 8.6 In the most serious cases it may be that a police enquiry will ensue, or an independent investigation may be called for. In some cases the issue will be referred for a management investigation, possibly by the Chief Executive, or another officer nominated to act on his behalf. Allegations of fraud, corruption, or financial irregularity will be referred to the Special Investigations Manager for investigation. In any investigation conducted by or on behalf of the Council the provisions of paragraph 8.5 above will apply so that the whistleblower is kept updated on the progress of the investigation.
- 8.7 Once the investigation is complete the Head of Law will inform the whistleblower of the outcome and this will be noted in the register. She will also ask the whistleblower for feedback about the way their complaint was handled.
- 8.8 In appropriate circumstances, the Head of Law will prepare a report for the Standards Committee and/or Council dealing with the outcome of a particular investigation, and any action taken in response to rectify the situation and/or prevent a recurrence

## **9. Safeguards**

### **9.1 No Victimisation**

The Council recognises that the decision to blow the whistle can be a difficult one to make, not least if there is a fear of reprisal from those who may be perpetrating malpractice, or others. The Council will not tolerate any victimisation of a person who raises a concern in good faith and will take appropriate steps to protect them, including where appropriate, disciplinary action.

### **9.2 Vexatious complaints**

Just as the Council seeks to protect those who raise complaints in good faith, it will seek to protect those against whom claims are made which turn out to be unfounded. No action will be taken against anyone who reasonably raises a concern in good faith which transpires to be unfounded. However, the Council will take disciplinary action against any employee who makes a vexatious claim. In either case, where it turns out that a claim was without foundation, the Council will use its best endeavours to ensure that any negative impact upon the person complained of is minimised.

### **9.3 Confidentiality**

Wherever possible, the Council will protect the identity of a whistleblower who raises a concern and does not want his/her name to be disclosed. When a whistleblower has requested that their identity be kept confidential all reasonable efforts will be made to obtain evidence which is pertinent to the claim without disclosing the

whistleblower's identity. However, it may not be possible in all circumstances to keep the identity of the whistleblower confidential, for example, if the matter needs to be referred to the police, or it is not possible to obtain other corroborating evidence. The very fact of the investigation may serve to reveal the source of the information and the statement of the whistleblower may be needed as part of evidence against the perpetrator. Where a whistleblower has requested confidentiality but it is not possible to continue the investigation on that basis if the investigation is to proceed, the Head of Law/investigating officer will discuss this with the whistleblower before doing so.

## **10 Anonymity**

- 10.1 Complaints which are made anonymously are usually more difficult to investigate. However, the Council prefers anonymous complaints to be made, rather than serious concerns to go unreported. Whether or not an anonymous complaint can be investigated will depend upon the circumstances of the case. If there is sufficient detail provided to enable an investigation to be carried out without knowing the identity of the whistleblower an investigation will ensue, provided it is in the public interest to do so. Where an anonymous complaint raises serious concerns every effort will be made to investigate thoroughly.

## **11. Alternative Avenues for complaint**

- 11.1 Where an appropriate internal avenue exists to deal with a concern, people are urged to use it. This policy is intended to supplement rather than replace existing channels. Where practicable existing internal channels should be used. These include:

### **Service Managers/Directors**

Anyone with a complaint about Council services is encouraged to contact the manager directly responsible for that service or the relevant Executive Director. In most cases where there is concern this avenue will be the first point of reference. If a complaint relates to an Executive Director, it should be referred to the Chief Executive.

### **The Council's Complaints Procedures**

The Council has a corporate complaints procedure by which it invites any person to raise a complaint they may have about Council Services. Information about this procedure is available from the Advice and Information Service on extension 48761.

### **Local Councillors**

Members of the public are encouraged to refer matters of concern to their local Councillor who can then either identify the best point of contact for them to report the matter or take up the issue on their

behalf. Information about how to contact local Councillors is available from Governance Support at Lewisham Town Hall on extension 49455.

### **Anti-fraud Procedures**

The Council's Anti-Fraud & Corruption Team (A-FACT) investigates all allegations of fraud within and against Lewisham Council and is part of the Audit & Risk Group based within the Resources and Regeneration Directorate. The team has specialist officers covering housing fraud, employee fraud, fraud relating to contractors, blue badges etc.

The Council's Financial Regulations state that it is the responsibility of any employee discovering or having reasonable suspicion of any irregularity, misconduct or fraud immediately to notify the relevant Executive Director or Head of Corporate Resources. When so informed, the Executive Director appraise the circumstances and shall notify and discuss the action to be taken with the Head of Corporate Resources. All information shall be treated in complete confidence.

Reports of suspected fraud may also be made to the suspected fraud, corruption or other financial irregularity can also be made to the Anti-Fraud & Corruption Team Manager who will conduct an investigation and make recommendations for appropriate action. Further information about this procedure can be obtained from Carol Owen ext. 47909.

### **Benefit Fraud**

All allegations of Benefit fraud should be made to the National Benefit and Fraud Hotline: 0800 854 440 or online at: <https://www.gov.uk/report-benefit-fraud>

### **Tenancy Fraud**

The Council has a dedicated Housing Investigator who investigates fraudulent applications for housing. They also receive allegations of subletting on behalf of Lewisham Homes and other housing providers. All allegations of housing related fraud should be made to Juliet Bennett, Housing Investigation Practitioner, preferably by email to, [juliet.bennett@lewisham.gov.uk](mailto:juliet.bennett@lewisham.gov.uk)

Any reports of suspected, corruption or other financial irregularity may also be made to [reportfraud@lewisham.gov.uk](mailto:reportfraud@lewisham.gov.uk) or to the team's 24 hour freephone Hotline on 0800 0850119.

## **Statutory Officers**

In addition the officers who have particular responsibility for regulating the conduct of the Council and its activities. They are as follows:

Chief Executive – Head of Paid Service – Barry Quirk ext 46444

Responsible for overall management of workforce.

Executive Director for Resources & Regeneration – Janet Senior ext 48013

Chief Finance Officer - The Council's officer with responsibility for the financial management, audit and financial probity of the Council.

Head of Law – Monitoring Officer – Kath Nicholson ext 47648

Dealing with advising on the probity and legality of the Council's decision making. The Head of Law, as Monitoring Officer, is the Council's Whistleblowing officer.

Employees with serious concerns about Councillors should in the first instance raise them with the Head of Law.

## **Children & Vulnerable Adults**

Concerns about the safety and wellbeing of children and vulnerable adults may be raised either with Sara Williams, Executive Director for Children and Young People on 020 8314 8527, email: [sara.williams@lewisham.gov.uk](mailto:sara.williams@lewisham.gov.uk) or Aileen Buckton, Executive Director Community Services, 020 8314 8107, email: [aileen.buckton@lewisham.gov.uk](mailto:aileen.buckton@lewisham.gov.uk)

## **The Standards Committee**

The Council also has a Standards Committee made up of councillors and independent people. The role of the Standards Committee is to promote the highest standards of ethical conduct amongst members.

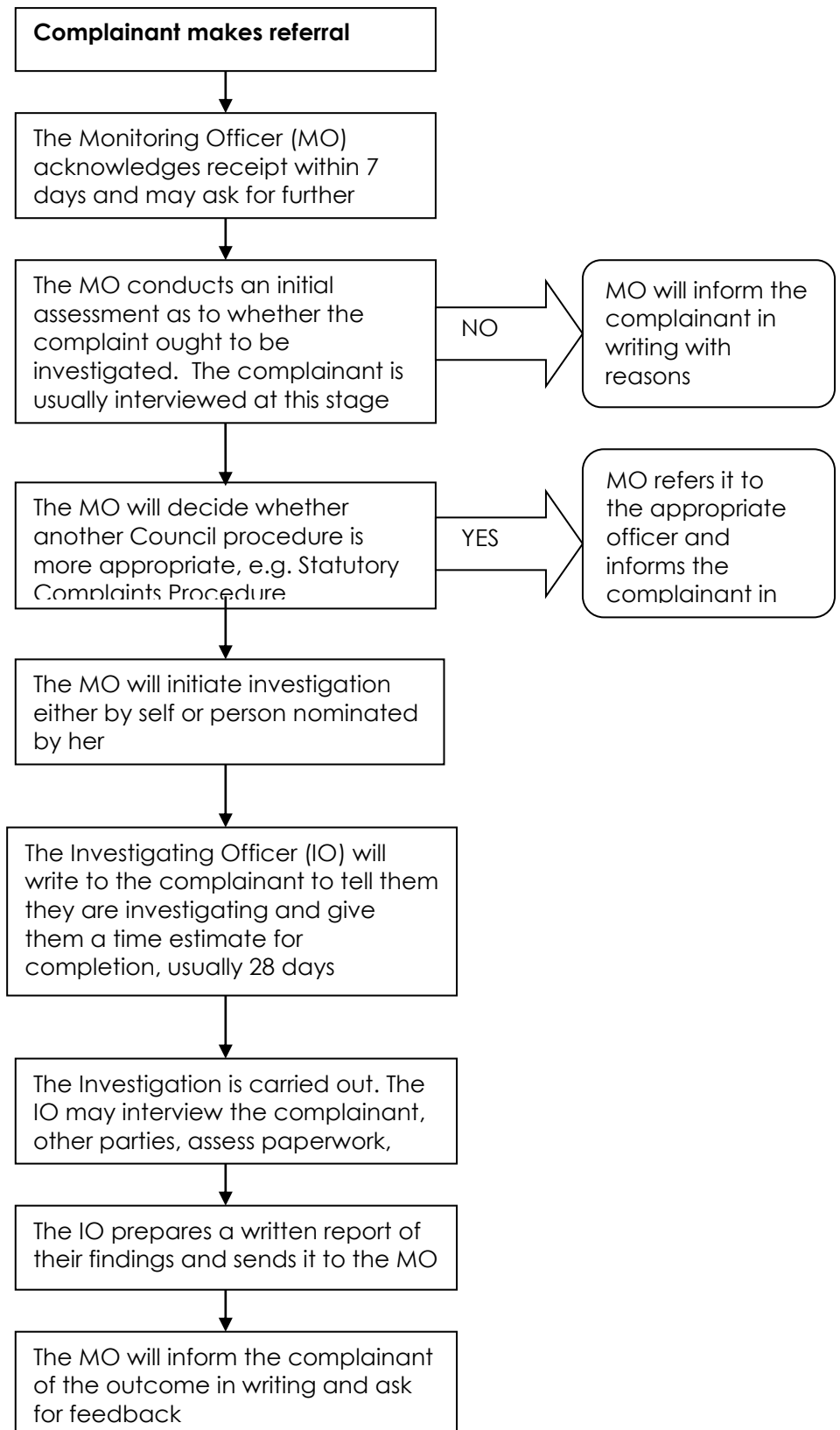
11.3 If anyone is unhappy with the process or outcome of an investigation and the Council's response, they may wish to raise the matter externally with:

- The Council's auditors Grant Thornton LLP, Darren Wells, Director on 01293 554 120, email: [Darren.j.wells@uk.gt.com](mailto:Darren.j.wells@uk.gt.com) for all matters relating to fraud, corruption or misuse of public money.
- The Local Government Ombudsman on 0300 061061
- The Whistleblowing Helpline for NHS and Social Care on 08000 724725



- The independent charity “Public Concern at Work” on 020 3117 2520, email: [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)
- 11.4 If an employee does choose to take a concern outside the Council, then it is their responsibility to ensure that confidential information is not handed over (i.e. confidential information, in whatever format, must not be handed over to a third party, unless in line with the Data Protection Act 1998). If clarification is required on this, the advice of the Head of Law should be taken.

## Procedure for dealing with whistleblowing Referrals



# Agenda Item 5

STANDARDS COMMITTEE		
<b>Report Title</b>	Compliance with the Member Code of Conduct	
<b>Key Decision</b>	n/a	Item No. 5
<b>Ward</b>	n/a	
<b>Contributors</b>	Kath Nicholson, Monitoring Officer	
<b>Class</b>	Part 1	Date: 22 November 2018

## 1. Summary

This report deals with the way in which Members address the need to comply with the Lewisham Member Code of Conduct and seeks the Committee's views about whether any amendment to practice is required or further information brought to the Committee's attention.

## 2. Purpose

The purpose of this report is to give information about the extent of compliance with the Lewisham Member Code of Conduct and to seek from the Committee any views about how practice in Lewisham could be improved.

## 3. Recommendations

- 3.1 To consider the information set out in this report and to consider whether to make any recommendations to the Council in respect of the effectiveness of the Member Code of Conduct.

## 4. Background

- 4.1 On June 28<sup>th</sup> 2012 the Council adopted a new Code of Conduct to comply with the requirements of the Localism Act 2011 in relation to the Council's ethical framework. The adoption of the Code was to not only ensure compliance with the new law but to maintain the Council's long held commitment to the highest standards of behaviour in local government and to promote public confidence in local governance.

4.2 The Lewisham Member Code of Conduct has appended to it a number of protocols:

- Member and Officer relations
- Member Use of IT
- Planning and Lobbying
- Code on Publicity

These protocols do not form part of the Code, but may be of assistance in deciding whether there has been a breach of the Code's main provisions.

## 5. **Assessment of Current Practice**

Officers have looked at elements of practice by Lewisham members to establish whether practice fits the requirements of the Code.

### 5.1 A statutory requirement to undertake to comply with the Member Code of Conduct

- (i) On election in May 2018 all councillors signed two declarations. The first is their declaration of acceptance of office. The second is an undertaking to abide by the Council's Member Code of Conduct in place from time to time. These declarations are held by Head of Committee Business on behalf of the Monitoring Officer.

### 5.2 Declarations of Interest

- i) The Government's model Code of Conduct sets minimum standards. The Council has adopted a local Code, which incorporates all the required statutory elements and requires members to declare the following interests:
- a) disclosable pecuniary interests
  - b) other registerable interests
  - c) any other interest where that member is of the view that a reasonable member of the public in possession of all the facts would think the member's judgement is so significant that it would be likely to impair the member's judgement of the public interest.

Members must also take no part in consideration of the matter and withdraw from the room before it is considered if their interest is a disclosable pecuniary interest or where it is a registerable interest or other significant interest where that member is of the view that a reasonable member of the public in possession of all the facts would think the member's judgement

is so significant that it would be likely to impair the member's judgement of the public interest.

ii) An assessment has been conducted of the number of declarations that have been made since October 2017. The focus has been meetings of the Mayor and Cabinet (including Mayor and Cabinet (Contracts)) and the Planning Committees. The emphasis has been placed on these meetings as they are the major decision making fora. All declarations of interest are minuted by the committee clerk in attendance and a review of the minutes shows the following results:

<b>October 2017 – October 2018</b>		
	Declaration (personal interest)	Withdrew (disclosable pecuniary/ registerable/ other significant interest)
Mayor & Cabinet	5	2
M&C (Contracts)	0	0
Planning Committees	13	0
Council	24	0

iii) It is apparent that there is a clear awareness that members must consider whether to declare and withdraw, as the incidence of such practice shows.

As previously considered and agreed by this Committee a notice now appears at the front of each agenda which details the circumstances in which a personal interest can arise. Members have commented that they find this notice to be a helpful reminder and concise summary of their responsibilities on declaring interests.

### 5.3 Advice on Ethical Issues

i) Some of the declarations/withdrawals referred to in paragraph 5.2 above followed a request for advice from the Monitoring Officer, or her representative. However, several were made

without even an approach, as the member concerned was of the view that an interest existed without the need for such advice.

- ii) Where possible, if Code of Conduct issues arise, Monitoring Officer advice is incorporated into reports.
- iii) The number of declarations demonstrates that members are aware of Code of Conduct issues.

#### 5.4 Dispensation

It is possible for a member to apply to the Standards Committee for dispensation allowing them to participate notwithstanding a disqualifying interest. There have been no applications for dispensation.

#### 5.5 The Members' Register of Interests

Section 30 of the Localism Act 2011 requires members and co-opted members to notify the monitoring officer of any disclosable pecuniary interest of them or a spouse or civil partner they live with. The Relevant Authorities (Disclosable Pecuniary Interests ) Regulations 2012 specify what is a pecuniary interest. The need to register any of the following interests in the Members' Register of Interests is also a key feature of the Member Code of Conduct.

**(a) Employment, office, trade, profession or vocation**

Any employment, office, trade, profession or vocation carried on by a relevant person\* for profit or gain.

**(b) Sponsorship**

Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 months prior to the date of giving notice of interest for inclusion in the register in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

**(c) Contracts**

Any contract which is made between a relevant person\* (or a firm in which they are a partner, or a body corporate in which they are a director or in the securities\*\* of which body corporate they have a beneficial interest) and the relevant authority—

- (a) under which goods or services are to be provided or works are to be executed; and
  - (b) which has not been fully discharged.
- (d) Land**  
Any beneficial interest in land which is within the borough.
- (e) Licences**  
Any licence (alone or jointly with others) to occupy land in the borough for a month or longer.
- (f) Corporate tenancies**  
Any tenancy where (to the Member's knowledge)—
- (a) the landlord is the Council; and
  - (b) the tenant is a body in which the relevant person\* is a firm in which they are a partner, or a body corporate in which they are a director or in the securities\*\* of which body corporate they have a beneficial interest.
- (g) Securities**  
Any beneficial interest in securities of a body where—
- (a) that body (to the Member's knowledge) has a place of business or land in the borough; and
  - (b) either—
    - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person\* has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

A "relevant person" is:-

- (i) the Member, their spouse, or civil partner;
- (ii) a person with whom the member is living as husband and wife; or
- (iii) a person with whom the member is living as if they were civil partners.

"Securities" means shares, debentures, debenture stock, loan stock, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description other than money deposited with a building society

There are entries for all members and an annual reminder is also sent to all members about the need to keep this up to date. All members

have submitted a completed Declaration of Interest which now includes a section requesting information in relation to gifts and hospitality.

Individual returns are now available on the Council website. [www.lewisham.gov.uk](http://www.lewisham.gov.uk)

- 5.6 Following an incident in November 2018 when councillors were subjected to violent and intimidating behaviour the Monitoring Officer has advised that where she and the member are satisfied that disclosure of a member's address may lead to violence or intimidation of the member or those associated with them details of their home address need not be disclosed publicly. Several members have sought to take advantage of this provision and their home address has been removed from the publicly available Register of Interests

#### 5.6 Hospitality & Gifts

Under the Member Code of Conduct members are required to provide details of any gift or hospitality over the value of £25 and the source of such gift or hospitality that they receive as a member. The Code requires that within 28 days of receiving any gift or hospitality over the value of £25 that they notify the Monitoring Officer of the existence and nature of the gift or hospitality.

For the purpose of this review relevant entries for the previous year in the relevant section of the Register of Interests have been perused in an attempt to establish recent and current compliance with the requirements of the Code of Conduct. The Register has been completed by all whether by indicating hospitality received or by completing the section with "None" . This tends to indicate that members have a clear recognition of their need to make relevant entries and it was highlighted in the training by the Head of Law.

Individual returns are now available on the Council website. [www.lewisham.gov.uk](http://www.lewisham.gov.uk)

### 6. Complaints of breach of the Member Code of Conduct

- 6.1 Complaints of breach must be made to the Monitoring Officer, and there is a dedicated email address for this to be done. This is widely publicised on the Council's website where there is a direct link alongside the Complaints Procedure. The address is [monitoring.officer@lewisham.gov.uk](mailto:monitoring.officer@lewisham.gov.uk).
- 6.2 Perhaps the most telling indicator of the extent of compliance with the Member Code of Conduct is the number of complaints of breach made to the Council. Under changes introduced by the Localism Act 2011



the procedure for investigation of allegations of complaints of breach of the Code of Conduct is a matter for local discretion. The Council adopted a revised Procedure for Handling Complaints at its meeting on the 28<sup>th</sup> June 2012, which is a much simpler procedure than that previously in place and allows for informal resolution where appropriate

6.3 Since the consideration of the last report on the compliance with the Member Code of Conduct in October last year there has been two complaints raised against members.

6.4 A

This is a complaint made in February 2018 by Councillor A against Councillor B. It relates to an email from a private account from Councillor B to Councillor A which contained a profanity. Councillor B apologised, also by email, within minutes.

It is noteworthy that Councillor B had previously complained about an alleged breach by Councillor A in relation to a re-tweet by Councillor A which contained statements about fellow councillors which Councillor B deemed to be inappropriate. This complaint was reported in summary as still under investigation in the last review of compliance with the Member Code of Conduct.

Because of a conflict of interest for the Monitoring Officer, she allocated the earlier complaint to the former Deputy Monitoring Officer. The former Deputy Monitoring Officer made initial efforts to resolve the initial complaint by Councillor B informally in accordance with the Council's procedure. These efforts were protracted with no agreement reached through this avenue. Unfortunately, the former Deputy Monitoring Officer retired and the matter was subsequently reallocated to the newly appointed Deputy Monitoring Officer.

In the sensitive period (Purdah) in the run up to a local election it was inappropriate to pursue outstanding complaints. Once the new administration was in place steps were taken to bring both complaints to a conclusion in an amicable manner.

One Councillor agreed not to pursue his complaint further and has offered an apology. The other has not agreed to this course of action. In May 2018, the Deputy Monitoring Officer wrote to both councillors asking whether they would be prepared to reach an amicable conclusion. There has been no response from Councillor A since mid May 2018.

The Deputy Monitoring Officer has written to both Councillors A and B stating that she is of the view that given the lack of communication since May, informal resolution is not feasible. In accordance with the procedure she then conducted an initial assessment about whether the complaints should be further investigated. Given the lapse of time she

has reached the view that they should not and she has indicated that the complaints are now closed.

## B

On 11<sup>th</sup> April 2018 a member of the public complained that Councillor C was unresponsive to their requests and also about dissatisfaction with service levels. The Monitoring Officer responded the same day to the complainant that complaints about service are for corporate complaints and that their complaint about the councillor would not constitute a breach of the Code of Conduct even if substantiated.

### **7. Whistleblowing Complaints**

If there were complaints of alleged breaches of the Code of Conduct by members, it may be that they would arise through the Council's whistleblowing policy, which is well embedded. This Committee has received annual reports on whistleblowing cases.

### **8. Legal Implications**

The ethical framework under which the measures set out in this report have been established are provided in the Localism Act 2011 and Regulations made under it.

### **9. Financial Implications**

There are no specific implications arising.

### **10. Crime and Disorder Implications**

The Code of Conduct deals with the promotion of the highest standards of behaviour, and the prevention of breaches of the Member Code of Conduct which may well amount to criminal behaviour.

### **11. Human Rights Act Implications**

There are no specific implications arising.

### **12. Equal Opportunities Implications**

There are no specific implications arising.

### **13. Environmental Implications**

There are no specific implications arising.

### **14. Conclusion**

The Member Code of Conduct appears to be well embedded in Lewisham. Evidence seems to suggest a high level of compliance. Members of the Standards Committee are asked for their views on this data, and to make any further comments they consider appropriate to improve practice.

For further information about this report please contact Kath Nicholson, Head of Law on 020 8314 7648.