



CORPORATE GOVERNANCE COMMITTEE – 17 NOVEMBER 2023

JOINT REPORT OF THE CHIEF EXECUTIVE AND THE DIRECTOR OF CORPORATE RESOURCES

LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN CONSULTATION ON JOINT CODE OF PRACTICE FOR COMPLAINTS

Purpose of report

1. The purpose of this report is two-fold
 - a) to approve the Council's response to the current consultation being undertaken by the Local Government and Social Care Ombudsman (LGSCO) on a proposed joint handling code for complaints.
 - b) To update the Committee on the likely implications and developments required to ensure compliance with the Code when launched in April 2024.

Background context

2. The LGSCO is currently consulting on a joint complaint handling code with the Housing Ombudsman. The Code will apply to all Local Councils in England. A copy of the proposed Code is attached as **Appendix A**
3. The deadline for responses is 23 November 2023. Councils are asked to submit one single response through the Link Officer. A copy of the consultation questions and the proposed response to these is attached as **Appendix B**
4. The Code proposes a single model of complaint handling intended to apply to all complaints except those handled under the respective children's and adults social care statutory procedures¹. It sets out what an organisation must do, procedurally, to handle complaints.

¹ The Children Act 1989 Representations Procedure (England) Regulations 2006 & Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

5. The Code is being issued under the LGSCO's powers to issue "advice and guidance about good administrative practice" to the organisations it has jurisdiction over². The Code will be Statutory guidance for Councils.
6. The LGSCO has confirmed that whilst Councils are expected to be working to the Code from 01 April 2024, it will not seek to implement this into casework until 01 April 2025 thereby giving a 12-month implementation period.
7. Once implemented non-compliance with the Code could result in the Ombudsman taking further action through Public Reports.

Key implications arising from the Code

8. The code sets out a common definition of what constitutes a complaint and requires organisations to clearly set out the difference between "service requests" and "complaints".
9. The code introduces the concept of "comply or explain". This enables some departure from compliance with the Code but only where there is an exceptional circumstance arising. Councils must clearly explain the situation and identify a clear timeframe for returning to compliance.
10. The above principle applies only to individual complaints. An organisation's complaints policy and associated procedures **must** comply with the code.
11. The code will mandate a 2 Stage procedure for all complaints that are not covered by separate statutory procedures. Any 3rd parties handling complaints on the Council's behalf are expected to adopt the Code.
12. The code will define Stage 1 as an investigation stage and Stage 2 as a review stage.
13. The code will introduce expected timescales for responding at both Stages. Councils will be expected to signpost to the Ombudsman should they not be able to meet these timescales.
14. The timescales proposed are the following:

Stage 1	10 working days, with an option to extend by no more than 10 working days (a maximum of 20 working days)
Stage 2	20 working days with an option to extend by no more than 20 working days (a maximum of 40 working days)
15. The code requires the appointment of a Senior Executive, intended to be at Assistant Director or Director level, to oversee its complaint handling

² Section 23 (12A) Local Government Act 1974

performance and assess any themes or trends to identify potential systemic issues, serious risks, or policies and procedures that require revision.

16. It is expected that complaints teams are seen as a “core” service and not given other duties that impact on their ability to handle complaints effectively.
17. In addition, the Code requires a member of the *‘governing body (or equivalent) must be appointed to have lead responsibility for complaints to support a positive complaint handling culture. This person is referred to as the Member Responsible for Complaints.’* The ‘governing body’ is not defined in the draft code and it could be interpreted as the Cabinet which would suggest the Lead Member for Resources undertaking this role. Alternatively, the ‘governing body’ could be interpreted as the Council, in which case the Chair of the Corporate Governance Committee could undertake this role. It may be that this definition will be clarified through the process of the consultation exercise.
18. The member will be responsible for ensuring the ‘governing body’ receives regular information on complaints handling performance and key themes.
19. Each organisation will be asked to self-assess against the Code annually on a “comply or explain basis” and to publish this on their website.

Analysis of current gaps and challenges

20. An initial base-line self-assessment has been completed to assess areas of compliance and improvements required.
21. It should first be noted that currently only 53% of Stage 1 complaints were responded to within 10 working days and 76% within the maximum 20 working days that the Code will require. There will be some significant organisational challenges to meet the stricter timescales.
22. The Code sets out strict criteria around defining a complaint. This is likely to significantly increase the volume of complaints as any expression of dissatisfaction would be classed as a complaint. This would include delayed responses.
23. The self-assessment identifies a number of areas that will require development of training materials and it is clear that there will be a need to undertake wholesale organisational development work to ensure departmental managers understand their duties and are equipped to operate in line with the Code. There is currently insufficient capacity to deliver this with existing resource levels.
24. In particular there are inconsistencies in departmental managers ability to compose quality and considered responses to complaints.

25. The code places an obligation on complaints teams to continue to track and monitor follow up actions agreed within responses to complaints. This will require significant resource levels, and which cannot be delivered within the current complaints structure.

Recommendations

26. The Committee is recommended to:

- (a) note the contents of this report.
- (b) Agree the Council's proposed response to the consultation.

Equality Implications

27. The Code of Practice will require substantial work to ensure compliance. This will include an updated Equality Impact Assessment.

Human Rights Implications

28. There are no Human Rights Implications arising from this report.

Background Papers

None

Circulation under the Local Issues Alert Procedures

None.

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List of Appendices

Appendix A: Draft Joint Complaint Handling Code of Practice.

Appendix B: Proposed LCC response to the Consultation