



CORPORATE GOVERNANCE COMMITTEE – 20 MAY 2024

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

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

Purpose of report

1. The purpose of this report is:
 - a) to provide an update on the conclusion of consultation undertaken by the Local Government and Social Care Ombudsman (LGSCO) on a proposed joint handling code for complaints.
 - b) to advise the Committee of the key actions required to ensure compliance with the new Code of Practice when implemented.

Background context

2. The Committee received a report in November 2023 on the draft joint complaint handling code (the Code) developed by the LGSCO and Housing Ombudsman.
3. The Code is intended to provide a gold standard for complaint handling across the local government and social housing sector. It would apply to all Councils in England.
4. Formal consultation was launched on the Code in September 2023 and the Committee commented and approved the Council's response to this consultation at its meeting of 17 November 2023.
5. The Ombudsman published their response to the Consultation in February 2024 and a copy of this is attached as **Appendix A**.
6. As referenced in the consultation response document, a number of important changes were made to the Code and a revised version has been issued. This is attached as **Appendix B**.

Key changes following consultation

7. Consultation responses revealed 5 broad themes (which reflected the response submitted by the Council as approved by the Committee in February 2024) as follows:
 - That there were wider variations than anticipated in how complaints functions across local councils in England are delivered.
 - That the Code's definition of a complaint may bring significant numbers of routine service requests into the complaints process.
 - That members of the public should not be directed through the complaints process just because they express dissatisfaction with an organisation's actions but instead should be given a choice.
 - That organisations may be overly focused on complaint timescales rather than providing good outcomes.
 - That the proposed process for dealing with complaints at Stage 1 was overly prescriptive and did not allow for quick resolution of complaints.
8. Following a specific challenge from the Local Government Association over the powers the LGSCO had to compel compliance with the Code, it has been clarified that Councils are **not** legally obligated to follow the Code however are expected to have regard to it as "Advice and Guidance" when developing relevant policies and procedures and responding to complaints.
9. It is also proposed that there be two separate Codes based on a unified set of principles, but which recognises the differences between the roles and powers of the LGSCO and Housing Ombudsman. This will also allow for different guidance to be developed for each sector in how to interpret and apply the Code.
10. There is also a significant change in the implementation of the Code. Originally it was intended to be used by Councils from 1 April 2024 and that the Ombudsman would apply the Code into its casework from 2025/26. This has now been delayed by a year to allow for a Pilot launch in 2024. This pilot will help shape further guidance on the practical application of the Code. The Ombudsman is now planning to apply the Code to casework from 1 April 2026.
11. Changes have been made to the section recognising the difference between Service Requests and Complaints. Importantly, the Code now clarifies that organisations should have an opportunity to resolve matters as a service request before a complaint is made even if the individual expresses dissatisfaction.

12. The revised Code is also now less prescriptive of how organisations should structure complaints handling teams providing more flexibility to deliver this based on local circumstances and needs.
13. The requirement for a written response at Stage 1 has been removed recognising that there should be greater flexibility in how organisations respond.
14. Stage 2 is now not termed “a review” recognising that in some instances a more detailed investigation is required. The Code now reflects that this is the Council’s final opportunity to respond and should use local judgement as to what this response entails.
15. The revisions referred to above are welcomed and will not present the onerous burden that had been expected to arise under the Code as originally drafted.

Expected compliance with the Code

16. The Ombudsman expects Councils to carefully consider the Code when developing policies and procedures. Where an organisation departs from the Code, it should ensure local decision-making processes have been properly followed and that there is a good reason for departing from the Code.
17. The Ombudsman may make a finding of maladministration where local policies depart from the Code without a sufficient explanation or where an organisation does not meet the standards expected when responding to an individual complaint.
18. The Council will need to review its Corporate Complaints Policy to ensure readiness for the Code’s implementation. The current policy already mirrors the Code in most areas but there are some key actions required as set out below:
 - Minor changes to the definitions of “Service Request” and “Complaint”.
 - Additional work required to ensure complainants are given the opportunity to clarify their complaint.
 - Requirement to track follow up actions and ensure these are completed.
 - Further work to ensure the Council meets its anticipatory duties to provide reasonable adjustments.
 - Change in timescales for responding to complaints and earlier signposting to the Ombudsman where in breach of these.
 - Taking steps to ensure that all contractors or 3rd parties work in accordance with the Code.
 - Requirement to complete an annual self-assessment of compliance with the Code and which will be reported to this Committee. The suggested Self-Assessment has been greatly reduced in detail from the original draft and is appended as **Appendix C**.

- Confirm governance arrangements for how member scrutiny will be carried out. This could be through a specific Lead Member for Complaints or through a designated Committee.

All of the above actions will be progressed through an Action Plan to enable the Council to achieve compliance with the Code by April 2026.

Recommendations

26. The Committee is recommended to note the contents of this report.

Equality Implications

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

Human Rights Implications

28. None arising from this report.

Background Papers

Corporate Governance Committee 17 November 2023 – Local Government and Social Care Ombudsman Consultation on joint Code of Practice for Complaints
<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=434&MId=7131&Ver=4>

Circulation under the Local Issues Alert Procedures

None.

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List of Appendices

Appendix A: LGSCO Response to Consultation.
Appendix B: Revised Code of Practice.
Appendix C: Required Self Assessment