

Overview & Scrutiny Committee

Monday 14 July 2014
7.00 pm

Ground Floor Meeting Room G01B - 160 Tooley Street, London SE1
2QH

Supplemental Agenda 2

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Complaints Policy

Customer experience division

www.southwark.gov.uk

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1. Introduction

We want to provide excellent services and deliver those services right first time for our customers. Where we fail to do so we expect officers to take ownership and work with customers to resolve any issues. There may be times, however, when customers feel we have let them down and wish to make a complaint.

Southwark Council recognises the value of customer complaints and welcomes them as an important form of feedback on our services. We will learn from and use the information from complaints to drive forward improvements and respond positively to our customers' needs and expectations. We put a strong emphasis on making personal contact with complainants and finding out from them what we need to do to put things right. We want to resolve all complaints quickly and effectively, resolving them straight away where possible.

We accept complaints in all formats and they can be made in a number of ways, including:

- Visiting our website
- Completing a complaints form
- Emailing us
- Ringing us
- By fax
- Using textphone/minicom
- Writing to us
- In person at customer access points.

2. Our aims

We believe that all our service users have the right to:

- Have their views heard
- Receive a good quality service
- Expect prompt action when our performance is below standard, balanced by the resources we have available

Our staff and contractors will be:

- Efficient and sensitive to the needs of the service users
- Accessible and clearly identified
- Aware of the day-to-day concerns of our service users

Our procedure will:

- Be easy to access and widely advertised
- Advise service users of the standard of service they should expect, a time limit for replying to their complaint and their right to appeal
- Provide a code of practice for handling complaints
- Ensure we monitor complaints
- Ensure we meet our standards

3. How we handle a complaint

We define a complaint in the following way:

“Any expression of dissatisfaction about any of our services requiring a response.”

Who can make a complaint?

We accept complaints from residents, local businesses, visitors to the borough, suppliers of services, community groups and any other groups or individuals that use or are affected by our services. We also accept complaints from people acting on behalf of someone else such as councillors, members of parliament (MPs) and representatives.

What happens if customers are dissatisfied with a service?

If customers are dissatisfied with a particular service, they are encouraged to contact the service or officer they have been dealing with as soon as possible. We want to resolve issues as quickly as possible by dealing with initial failures informally by making personal contact, where possible, and agreeing what actions we will take. Although we will try and contact customers as soon as possible, customers can expect us to respond within three working days.

What happens if customers are still dissatisfied with the response?

If we have not resolved the issue to the complainant's satisfaction, they can make a complaint through our complaints process. If customers have not previously contacted us to let us know about their dissatisfaction with a service we will not normally treat the initial report as part of the complaints process.

We operate a two phase complaints process, which gives the complainant the right to have their complaint reviewed at more senior levels should they be dissatisfied with the outcome of the initial response.

Complaint phase: The complaint will be dealt with by officers, contractors or the service manager in the section providing the service. If the complaint is about the manager a more senior member of the management team will handle the complaint.

Review phase: If the complainant is dissatisfied with the outcome of their complaint, the customer resolutions team will carry out an independent review of the complaint on behalf of the chief executive.

On some complaints we may provide a final decision at the complaint phase so that there is no need for the complainant to go through to the review phase. This is where we deem that the council is not at fault and that our response would be the same after a review of the complaint. When this happens complainants will be informed of their rights to refer the complaint to the Local Government Ombudsman or Housing Ombudsman or the council will refer the complaint to the Ombudsman directly.

What is the time limit for acknowledging receipt of a complaint?

We will acknowledge receipt of a complaint by phone or in writing within three working days. Our acknowledgement will provide full contact details of who is to investigate the complaint, the subject of the complaint and the deadline for our reply.

What is the time limit for a full response to a complaint?

The time limit for a full response is 15 working days for the complaint phase and 25 working days for the review phase. Responses will include a clear escalation phrase.

What happens if the complainant is still dissatisfied once they have been through our complaints process?

If the complainant remains dissatisfied following the outcome of the review of their complaint, the complainant will be informed of their rights to refer the complaint to the Local Government Ombudsman or Housing Ombudsman.

Complaints against local authorities in their role as social landlords (as well as in respect of their ownership and management of leasehold housing) will, from 1 April 2013 onwards, be considered by the Housing Ombudsman.

The Local Government Ombudsman deals with complaints about most other council services, including planning, social care, housing benefit, environment and waste, transport and highways, council tax and some education matters.

4. What information do we need to investigate a complaint?

We will make a detailed record of the complaint so it is important that we are given all the information. We will then direct the complaint to the relevant service to handle.

We take complaints seriously so the service will always attempt to deal with the matter immediately and make personal contact with the customer to ask what action they would like us to take to resolve their concerns.

We expect our staff to keep in regular personal contact with customers until the complaint is resolved.

We will provide customers with reasonable help that they need – for example we can explain the complaints process and signpost customers to other services.

We have striven to remove barriers which might deter or exclude individuals from accessing the complaints process. To ensure equal access for all we can provide:

- Home visits
- Fully accessible meeting locations
- Full confidentiality
- Advice on advocacy or representation
- Translation and interpretation, including sign language, Braille, and large print

Is there a time limit for making a complaint?

We will not normally consider a complaint that is made more than twelve months after the individual first became aware of the issue they want to complain about. This is in line with good practice as operated by the Local Government Ombudsman. There are exceptions to this where the council accepts that such a delay was reasonable.

How do we learn from complaints?

When we do not provide customers with the right service at the right time it costs the council money. We learn from complaints by offering timely and effective remedies. This gives us the best outcome in terms of cost effectiveness and customer service. Where a complaint highlights the need for changes in working practice, systems, staff training, procedure or policy the officer is required to highlight this and other learning points to the customer resolutions team. They will work with the service manager(s) concerned to make sure the necessary actions to bring about the change are carried out.

Lessons learned will be highlighted in the quarterly complaints reports so that learning and good practice can be shared across the council.

What complaints aren't covered by this policy?

There are certain types of complaints that will not be dealt with under this policy because there are specific policies for dealing with these including:

- Matters for which there is a statutory right of appeal
- Complaints where legal proceedings, court or tribunal action is being taken (although related issues that are not subject to legal proceedings may be considered)
- Housing matters which are being dealt with under the arbitration process
- Most social services complaints concerning adults and children where special procedures apply by law
- Employee complaints about terms and conditions of employment, working conditions or personnel issues which come under the employee complaints procedure
- Matters which are subject to an insurance claim
- Complaints that are submitted anonymously (although we may still investigate)

Southwark has a separate policy and procedure as to how it manages customers who may be habitual, persistent or vexatious complainants.

Further details can be found at www.southwark.gov.uk/complaints

Maintaining confidentiality

The Data Protection Act 1998 regulates the way in which organisations can use personal information. When dealing with local authority complaints there are specific issues which need to be kept in mind.

- A complaint cannot be discussed with, or information disclosed to, a third party without the written permission of the customer. For example, where an advice worker or solicitor is making a complaint on behalf of a customer a letter of authorisation must be obtained.

- An exception to this rule allows a constituent's own ward councillor or MP to be given information when following up a complaint made on their behalf.
- However, where a councillor is acting on behalf of a constituent of a different ward the customer's permission must be sought before disclosing.

5. Complaints resolution

Southwark aims to resolve complaints by putting things right where there has been a failure in service. Our approach will be fair and consistent across all the complaints we uphold.

What will we do when resolving a complaint?

In resolving complaints we will:

- Try to call the complainant to make personal contact including, where appropriate, offering to meet with the complainant to provide us with the opportunity to fully understand what they want us to do to remedy the complaint
- Where possible, agree with the complainant actions that will be taken and when.
- Update the complainant at each step of the way and advise them of any delay in completing the actions
- Contact the complainant to ensure any issues have been resolved and the actions completed

What will we do when answering a complaint?

When answering a complaint we will:

- Address the issues raised
- Explain the basic policy / procedure or level of service that we provide
- Say how we have handled the matter including, where appropriate, a chronology of the events
- Give a clear outcome as to whether we uphold the complaint

Where our service has not met our standards we will:

- Apologise for the failure in service
- Explain what went wrong
- Say what we have done to put things right
- Where appropriate, say how we have learned from the complaint

6. Putting things right

There are a number of actions we can take to put things right.

- Providing the service

Where we have failed to provide a service that we agree the customer is entitled to, we should ensure that the service is provided in line with an agreed timetable, explaining any delay.

- Backdating the service

Where we have not provided a service that we should have, it may be appropriate to backdate the service to when it should have been provided in the first instance. For example a benefits application that needs to be backdated to the original claim date.

- Stopping enforcement action

Where the complainant disputes the reasons for the enforcement action it may be appropriate to stop the action or postpone the action pending further investigation.

7. Financial Compensation

Our first priority is to resolve failures and put them right. Unless we agree that the council is liable for material loss, we will usually only consider compensation when we review if the complaint has been adequately resolved.

Compensation should be appropriate and proportionate. It is not an automatic payment when the council makes a mistake. Compensation should only be considered where the complaint investigation has identified maladministration (a mistake or delay that has caused a customer to suffer an injustice) and the council, or those working on behalf of the council are wholly or partially at fault.

Under what circumstances will financial compensation be considered?

If we cannot put a complainant back in the position that they would have been in but for our mistake/delay then we would consider financial compensation as a substitute. This may be because of the passage of time or the nature of the events.

We will not consider financial compensation in the following circumstances:

- Any matter settled via an insurance claim
- Any settlement agreed via court proceedings
- Any matter settled by the arbitration unit
- Where there is a specific statutory process of remedy open to the complainant, such as parking appeals process
- We would generally not pay compensation where the amount of the award calculated was less than £50 (instead we would consider some other form of benefits in kind such as vouchers that can be spent on the High Street)

Exceptions to these circumstances:

- We may pay compensation to settle a claim where it is cost effective for the council to do so
- If a tenant is not covered by insurance we will use our discretion to compensate them in the case of especially vulnerable tenants

8. Further information

For details on the levels of compensation and who has authority to authorise payments see the appendix.

For further information on complaints you can:

- Visit our website www.southwark.gov.uk
- Email complaints@southwark.gov.uk
- Ring on (020) 7525 5000
- Fax on (020) 7525 5000
- Use textphone/minicom on (020) 7525 3559
- Visit in person any of our customer access points
- Write to us at: Customer resolutions team, 2nd Floor Hub 2, Southwark Council, PO Box 64529, London SE1P 5LX

Contact details for the Local Government Ombudsman are as follows:

Website: www.lgo.org.uk

Address: Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

Telephone: 0845 602 1983

Contact details for the Housing Ombudsman are as follows:

Website: www.housing-ombudsman.org.uk

Address: Housing Ombudsman Service
81 Aldwych
London
WC2B 4HN

Telephone: 0300 111 3000

Appendix

1. How much compensation?

We determine the levels of compensation by the particular facts of the case, for example the amount of time the complainant has had to wait for a decision and the nature of the injustice.

2. Compensation tariffs

a. Delay and distress

Low Impact: The complainant has just cause but has not suffered significant inconvenience or distress as a result of the events. Low impact means the manager accepts the service has not achieved the expected standards. However, the impact is not greater than a reasonably tolerant person could be expected to accept and therefore the compensation constitutes a token acknowledgement of the failure to perform.

Medium Impact: The events are clearly an injustice to the complainant and the service has failed to meet the required standards. A repeated failure by us to address the shortcoming, even of a low impact event, could give rise to consideration of medium impact level of compensation.

Major Impact: A serious failure in service standards. It could either be the severity of the event or a persistent failure over a protracted time or an unacceptable number of attempts to resolve and address the complaint. Major impact could also apply to expenses incurred by the complainant. We will only consider expenses appropriate to the event.

i. Delay: In delivering a service.

Low Impact of the delay	£250 per annum	Or £5 per week
Medium Impact of the delay	£500 per annum	Or £10 per week
Major Impact of the delay with injury to health	£1000 per annum	Or £20 per week

ii. Distress: In some circumstances we will make a payment for distress. Distress can include stress, anxiety, frustration, uncertainty, inconvenience, worry or outrage. This should take into account the severity, length of time suffered, number of people affected (e.g. one person or a whole family) and vulnerability.

Low Impact of the distress	£250 per annum	Or £5 per week
Medium Impact of the distress	£500 per annum	Or £10 per week
Major Impact of the distress with injury to health	£1000 per annum	Or £20 per week

b. Time and trouble

We consider the extent of inconvenience a complainant has experienced to get a resolution to their problem.

Time and trouble is not the same as delay or distress. In assessing whether time and trouble compensation is payable relevant factors could include:

- The length of time, including response times by the council, taken to deal with the problem and the complaint itself
- The time and effort required from the complainant
- Any specific difficulty experienced by the complainant in dealing with the council
- The degree of inadequacy of the council's response to letters, phone calls or visits.
- Whether there has been an element of wilful action on the part of the council that has resulted in poor management of the complaint
- The level of minor unquantifiable expenditure incurred by the complainant such as significant post, telephone or travel costs, whether the complainant was acting on behalf of others in pursuing the complaint, as a representative of a tenants' group for example

Time and trouble	Minimum £50	Maximum £250
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c. Incurred costs

If the complainant has incurred costs, which would not have been necessary, but for the fault, it will usually be appropriate to reimburse the complainant. For example, costs of contractors' use of the complainant's gas and electricity.

d. Loss of a non-monetary benefit

Where the access to a service or facility has been restricted or denied. For example, loss of the use of a room because of a major leak that has not been rectified in line with our own performance standards.

e. Loss of value

We do not normally pay for valuable items if they have been (or could have been) insured. We only pay in exceptional circumstances and any award is paid without accepting liability that may compromise an insurance claim. We seek advice from our insurance section before making any awards for loss of value of over £200.

f. Loss of opportunity

If we are unable to remedy any loss of opportunity and an apology under the circumstances does not seem to be enough, we may pay compensation. For example, if we failed to consider a complaint for alternative accommodation due to an administrative error or the loss of appeal rights due to official delay.

Loss of opportunity	Minimum £50	Maximum £100
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g. Professional fees

In normal circumstances a solicitor is not required to lodge a complaint. Therefore if a complainant chooses to engage one the fees will not be reimbursed.

In some cases, where the complexity of the issue or the vulnerability of the complainant lead to a professional person being required then consideration should be given to the reimbursement of professional fees.

This would only be considered in exceptional cases.

h. Interest

If we have held on to a complainant's money inappropriately we would pay the interest commonly applied by the county court.

i. Inappropriate legal action or the threat thereof

This applies to things such as benefits cases, possession orders or bailiff action.

Notice for seeking possession	£100
Court summons	£50 - £100
Suspended possession order	£300
Liability order	£100
Bailiff's letter (not threatening)	£50
Bailiff's letter (threatening)	£100
Eviction/removal of goods	No set amount but should be Proportionate to the event

j. Ex-gratia or good will payments

If we feel the complainant deserves something but cannot find an award to fit (i.e. within the criteria of a. to i. above), we will make a good will payment. This is not the same as a time and trouble payment and it will only be made in rare cases where we don't except fault or liability but recognise unintended injustice.

3. Awarding and offsetting compensation

We will write to our customers and inform them of the total award amount. The letter will contain a detailed list of all the factors considered and the costs awarded for each factor. It will also explain that compensation will usually be offset against any arrears the customer owes to the council.

Awards of compensation are not subject to negotiation. It should be calculated in line with the above tariffs and payment should be made within four weeks of the date of the award being made.

The complainant will have the right not to accept the payment. They can choose to escalate to the next phase of the complaint procedure even if they accept the payment.



Habitual Complainants Policy

Document History

Issue	Change	Changed By	Authorised By
Draft 0.1	Initial Draft – No changes		
Draft 0.2	Incorporate comments from monitoring officer	Norman Coombe	Zoe Bulmer
Draft 0.3	Incorporate comments from Yvonne Salvin	Norman Coombe	Zoe Bulmer
Draft 0.4	Incorporate comments from Cllr L and officers	Norman Coombe	Zoe Bulmer
Draft 0.5	Incorporate comments from Cllr LGO and officers	Norman Coombe	Zoe Bulmer
Draft 0.5	Incorporate comments from CMT	Norman Coombe	Zoe Bulmer
Version 1			Annie Shepperd

Distribution / Actions

Name	Job Title	Action
Yvonne Salvin		For comment
Deborah Collins	Monitoring Officer	For comment
Corporate Management Team		For review & comment
Annie Shepperd	Chief Executive	For review & sign-off

Final distribution

This policy is available to all Southwark employees and Council members through The Source. Hard copies for distribution may be requested through the Customer Experiences team.

Habitual Complainants Policy

1. Introduction

- 1.1 Habitual complainants are an increasing problem. The difficulty in managing such complainants places a strain on time and resources and causes unacceptable stress for staff who may need support in difficult situations. Staff are trained to respond with patience and understanding to the needs of all complainants and their families, but there are times when there is nothing further that can reasonably be done to help them or to put right a real or perceived problem.
- 1.2 When considering how to manage these types of complainant, staff need to consider the following:

- that the complaints procedure has been correctly implemented and that no material element of a complaint has been overlooked or inadequately addressed. In doing so it should be appreciated that habitual complainants may have issues, which contain substance.
- to identify the stage at which a complainant has become habitual.

2 Application of this Procedure

- 2.1 This procedure applies to both staff and elected councillors where the councillors are acting on behalf of Southwark, for example, where a councillor is acting in an executive role as part of cabinet. The term staff in this procedure therefore includes elected councillor where they are acting on behalf of Southwark.
- 2.2 This policy will not apply to freedom of information requests considered as vexatious requests.

3 Purpose of this Procedure

- 3.1 Complaints about the council or about services provided by contractors working for the council are processed in accordance with Southwark Council's complaints procedure. During this process, staff inevitably have contact with a small number of complainants who take up an unwarranted amount of council resources. The aim of this procedure is to identify situations where the complainant could be considered habitual and to suggest ways of responding to these situations.
- 3.2 The procedure will only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the council's complaints procedure. Advocacy groups can be involved at the complainant's request.

4 Criteria for Recognition of a Habitual Complainant

- 4.1 A complainant (and/or anyone acting on their behalf) may be considered to be habitual where current or previous contact with them shows that they meet any of the following criteria:
- persists in pursuing a complaint where the Council's complaints procedure has been fully implemented and exhausted. For example, where investigation is deemed to be "out of time" or where a request for independent review has been refused.
 - changes the substance of a complaint, persistently raising new issues, unreasonably raising further concerns or questions on receipt of a response while the complaint is being dealt with. N.B. Care is taken not to disregard new issues which differ from the original complaint – these may need to be addressed as separate complaints.
 - using new complaints to resurrect issues which were included in previous complaints.
 - is unwilling to accept documented evidence of services provided as being factual (e.g. council tax or nursing records, or welfare rights advice). This may also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
 - insists they have not had an adequate response in spite of a large volume of correspondence specifically answering their questions/concerns.
 - is unable to identify the precise issues they wish to be investigated, despite efforts to help them do so by staff and, where appropriate, advocacy groups.
 - is unwilling or unable to accept that the concerns identified are not within the remit of the Council to investigate.
 - focuses on a trivial matter to an extent, which is out of proportion to its significance and continues to focus on this point. It is recognised that determining what is trivia is subjective.
 - makes repeated complaints which appear to be to avoid the payment of monies legally due, where there is not a real dispute.
 - uses or threatens physical violence towards staff or their families/colleagues. This will in itself cause personal contact with the complainant and/or their representatives to be discontinued and

the complaint will only be pursued through written communication. All incidents are documented and reported, when appropriate, to the police.

- has an excessive number of contacts with the council placing unreasonable demands on staff. Such contacts may be in person, by telephone, letter, fax or electronically. The specific circumstances of each individual case are used in deciding how many contacts are excessive.
- pursuing complaints through a number of council departments or procedures and/or external agencies placing unreasonable demands on staff.
- harasses or is personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint, or their families and/or colleagues. It is recognised that complainants may sometimes act out of character at times of stress, anxiety or distress and allowances are made for this. All incidents of harassment or aggression are documented and dated.
- electronically records meetings or conversations without the prior knowledge and consent of the other parties involved. It may be necessary to explain to a complainant at the start of the investigation into their complaint that such behaviour is unacceptable and can, in some circumstances, be illegal.
- acts in a vexatious or vindictive way that causes harm or distress to an officer, councillor or their families/colleagues.
- displays unreasonable demands or expectations and fails to accept that these may be unreasonable once a clear explanation has been given (e.g. insisting on the response to a complaint or enquiry being provided more urgently than is reasonable or recognised practice).
- is a relative/carer/friend complaining on behalf of someone, who may not have a complaint themselves
- attention seeking behaviour, involving MP, Secretary of State, Prime Minister etc.

5 Safeguarding Vulnerable Adults

5.1 Some complainants may be repeatedly complaining because of mental health problems. Where this is the case any concerns that staff may have

about vulnerability should be raised in line with the safeguarding adults policy and procedures.

6 Procedure for Dealing with Habitual Complainants

- 6.1 Managers and relevant councillors who believe a complainant is placing a strain on time and resources and causing unacceptable stress for staff or members will consult with the Customer Experience Manager or Monitoring Officer. The Customer Experience Manager will advise on what information is required to apply the policy.
- 6.2 A chronology of contacts will normally be prepared by the manager or councillor and documentation collated.
- 6.3 The Customer Experience Manager will consider the information provided by the manager or councillor and will decide if action is appropriate and will normally contact the complainant either by phone, in writing or by email to explain why this behaviour is causing concern, and ask them to change this behaviour. The Customer Experience Manager will explain the actions that the Council may take if the behaviour does not change.
- 6.4 However if behaviour is severe the Council may take action without notice.
- 6.5 If the behaviour continues, the Customer Experience Manager, after appropriate consultation will prepare a report for consideration by the Chief Executive. The report will detail the behaviour causing concern and detail the proposed action and the period.
- 6.6 The Chief Executive will consider the report and decide if the action is justified and proportionate. In the absence of the Chief Executive the Monitoring Officer will make the decision.
- 6.7 If the Chief Executive decides to take action, a letter will be sent from the Chief Executive detailing the action to be taken and for what period.
- 6.8 This letter will be copied to others already involved in the complaint such as practitioners, conciliator, CAB, Member of Parliament, advocates etc.

7 Action to be taken may include:

- drawing up a signed agreement with the complainant (if appropriate, involving the relevant service head) setting out a code of behaviour for the parties involved if the Council is to continue dealing with the complaint.
- declining further contact with the complainant either in person, by telephone, fax, letter or electronically, including blocking access to a particular email address – or any combination of these – provided

that one form of contact is maintained. A suggested statement may be used by staff to help them end telephone conversations.

- restricting contact to liaison through a third party.
- writing to the complainant that the Chief Executive has responded fully to the points raised, that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant is notified that the correspondence is at an end and that further communication will be acknowledged but not answered.
- informing the complainant that the Council reserves the right to refer unreasonable or habitual complainants to the Director of Communities, Law & Governance and/or the police where we believe a criminal offence has been committed.
- temporarily suspending all contact with the complainant, or investigation of a complaint, whilst seeking legal advice or guidance.
- banning the complainant from some or all of the council's buildings, if necessary by means of an injunction.

8 Reviewing Habitual Status

8.1 The situation will be reviewed at the end of the period or if for more than one year after a minimum of one year to consider whether

- a more reasonable approach is being used by the complainant and
- a different complaint is being reported, for which the usual complaints procedure needs to be implemented.

8.2 The review should be undertaken by the Customer Experience Manager and the Monitoring Officer, and the Customer Experience Manager will provide a report to the Chief Executive recommending what action is appropriate.

9 Monitoring use of the policy

9.1 A list should be maintained of current habitual complainants by the Customer Experience Manager. This must be kept secure at all times.

9.2 Where possible, equality data should be collected of complainants.

OVERVIEW & SCRUTINY COMMITTEE**MUNICIPAL YEAR 2014-15****AGENDA DISTRIBUTION LIST (OPEN)****NOTE:** Original held by Scrutiny Team; all amendments/queries to Peter Roberts Tel: 020 7525 4350

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Councillor Jasmine Ali	1	Aine Gallagher, Political Assistant	1
Councillor Catherine Dale	1	Tom Layfield, Opposition Assistant	1
Councillor Karl Eastham	1		
Councillor Tom Flynn	1	Scrutiny Team SPARES	10
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