

Classification: Open	Date: 14 July 2014	Meeting Name: Overview & scrutiny committee
Report title:	Management of complex complaints	
Ward or groups affected:	All	
From:	Zoe Bulmer, Customer Resolution Manager	

Request

At its meeting on the 31st March 2014 the committee requested a briefing to the incoming Overview & Scrutiny Committee detailing the process by which complicated complaints are dealt with. The briefing was asked to include:

- a) how it is decided where a complaint goes
- b) how a complaint is escalated
- c) maintenance of any audit trail for complaints, decisions and costs
- d) whether there is any cap on compensation awards
- e) recent performance against the current procedure
- f) any comparative procedures and statistics
- g) decision making process in determining a vexatious complainant

Context

1. The Council recognises that occasionally mistakes are made or processes do not work effectively, which can cause an injustice to those who use our services.
2. The Council has a two-stage complaints procedure, the aim of which is to resolve any complaints received in an effective, fair and efficient manner. The Council receives around 8,000 complaints a year, mainly concerning housing and environment as the two biggest services. The aim of the complaints process is to provide redress by putting the complainant back into the position they would have been if no error had occurred.
3. Following extensive consultation, the council moved to a two-stage complaint process as part of introducing a new complaints procedure in April 2013. This brought Southwark in line with a large number of local authorities which have also adopted a two-stage process.

How it is decided where a complaint goes

4. Reflecting the complexity of the services it provides, Southwark receives a wide variety of complaints. For example, in June we received complaints about; street harassment by contractors, the ethnic make up of contractor staff, the design chosen for newly painted bollards, poor levels of resurfacing on Walworth Road, the difficulties in finding private sector housing in Southwark for those on benefits and the failure to publish a street plan for Camberwell Green.

5. This can sometimes make it challenging to categorise complaints and allocate them to the right service for response. Overwhelmingly however, the majority of complaints received are straightforward requests for services which the council had previously failed to supply, for example repeated problems with bin collection or failure to carry out a repair. The service allocation for the complaint is very straightforward as the responsible team is easily identifiable.
6. Some of the complaints we receive will sit between more than one team, in which case a lead team is identified with input from other appropriate officers.
7. Very occasionally a complaint is received where the matters raised are very different and it will be logged as two separate complaints. However this is generally not best practice as it is preferable that the customer receives one response.
8. An example of this would be a fairly minor complaint about failure to repair a light in a communal area, coupled with a complaint about a major road improvement. The Council will be able to repair the light fairly quickly and respond, but the road complaint is much more complex, may take longer to respond and the response will come from a different department.
9. If a complaint is separated the customer will be informed so they are clear that they will be receiving 2 responses and the reasons for doing so.

Decision-making and jurisdiction

10. The decision about where a complaint should be assigned is decided by the officer logging it, in consultation with managers where necessary.
11. Some complaints will be out of jurisdiction of the council's complaints process. In some cases this can be very easy to identify, for example where dissatisfaction with repairs is being pursued via both the legal disrepair and the complaints process. This would be out of jurisdiction of the complaints process as the legal action is considered the 'higher' process and takes precedent.
12. Sometimes however, it is not clear if the complaint is in jurisdiction and sometimes only part of a complaint might be in jurisdiction. A good example of this would be a complaint about a homeless application. The customer may complain about the behaviour and responsiveness of the officers dealing with their case. They may also disagree with the outcome of their homelessness application. The disagreement with the outcome must be pursued via a legal process, and the law stipulates how such disagreements should be managed. However the council could consider the rest of the complaint separately as these would not form part of legal process.
13. There are of course always grey areas and each case must be taken on its merits. Where the Council is in doubt about jurisdiction it generally consults with the Local Government Ombudsman to ask their opinion. Legal advice may also be obtained from colleagues in Legal Services.

14. For particularly complex complaints a case conference may be arranged to engage with a number of services and teams and across organisations, including the police and mental health teams. This is best practice as recommended by the Local Government Ombudsman and has been found to be an effective way to resolve challenging cases.

How a complaint is escalated

15. Generally it is the customer who requests to escalate a complaint. However, the Council may choose to escalate where the customer is clearly in disagreement with the outcome of the complaint and continues to contact us. There are also cases where the Ombudsman may ask us to escalate a matter as a customer has contacted them directly.
16. The revised complaints policy introduced in April 2013 gave the Council the option to refuse to escalate a complaint where it is felt that the outcome was unlikely to change. These cases tend to be where the customer disagrees with the decision made, but the council feels the decision was correct and is happy to defend it to the ombudsman. An example of this might be a customer who disagrees with the outcome of their housing benefit application.
17. This approach was adopted following benchmarking with other organisation. The decision not to escalate must be taken by a manager in the complaints team to ensure it has been properly considered.

Maintenance of any audit trail for complaints, decisions and costs

18. The Council uses an IT system called Icasework to log and monitor complaints. Icasework has a detailed audit trail for each case so information can be accessed on how specific cases have been managed.
19. Regular reports are also produced on complaint costs, outcomes, numbers received and escalation rates. Where high levels of compensation are recommended it is raised with the division head. In Housing, all complaints about officers are also passed to the division head.
20. Southwark uses Housemark (an organisation which supports social housing in a number of ways including benchmarking and statistical analysis) to benchmark ourselves against similar organisations and are also members of a number of specialist complaints networks including the public sector complaint network. London councils work particularly closely together on complaints and complaints team has regular contact with complaint teams in Tower Hamlets, Brent, Lambeth, Lewisham, Camden, Hammersmith and Fulham, Bexley, Croydon and Islington.

Whether there is any cap on compensation awards

21. The complaints policy details compensation payable, which follows best practice recommended by the Local Government Ombudsman. There is no cap on compensation awards and occasionally larger awards, outside the normal policy, are made, often at the request of the Local Government Ombudsman.

Recent performance against the current procedure

22. Please see appendix 1 for recent performance on answering complaints and member enquiries. Southwark receives around 600 complaints on average per month and a similar number of member enquiries. It should be noted that member enquiries are not necessarily complaints.
23. While response times have not always met the challenging targets set for the service, performance is gradually improving and the response rate for member enquiries is almost on target.
24. There has been a significant reduction in cases being escalated from stage one to stage two. The most significant fall has been for the repairs service, which over the last few years has reduced their escalation rate from 25% of stage one's escalating in 2011, to 6% for the period ending March 2014. For the rest of the Council escalation fell from 16% to 7.5% in the same period.

Any comparative procedures and statistics

25. Southwark has followed the general trend for local authorities and moved our focus towards resolution of complaints, which is applicable for the majority of complaints received. This works less well however for the minority of complaints which are in disagreement with a policy, decision or process.
26. It can be difficult to compare procedures across organisations. Different legislation applies and even amongst the same type of organisations there can be considerable difference. Local Authorities can interpret relevant legislation differently, for example one council may choose to look at a benefits complaint via the complaints process where another would insist it went through the statutory appeals process.
27. There are also regulatory bodies which should be used for complaints to certain bodies, for example the Care Quality Commission for the NHS. This can make the complaints process a confusing challenge for customers.
28. The NHS is a good comparator for Local Authorities, being a similar type of organisation where customers may not have a choice in their use of the services. They may also have certain expectations of the type of service they receive and may go for long periods without any contact with the service provider, so have little understanding of its processes and service standards.
29. The NHS has a single complaints policy, but customers must choose whether to complain to NHS England or their local Clinical Commissioning Group. The NHS has a one stage complaint policy, which is mirrored in Southwark's Adults complaint policy. If customers are unhappy with the local resolution stage the next step is the Health Ombudsman.
30. Like Councils the NHS has a 12 month time limit and as with local authorities, the number of complaints received shows a very varied pattern, but the tendency is for inner city areas to receive much higher numbers. If hospitals are compared, Guys and St Thomas received an

average of 800 complaints a year over the last three years, Barts received 1,000 on average, but The Royal Brompton and Harefield NHS Foundation Trust received 90 on average per year.

31. The DWP is also a good comparator and has a very similar complaint process to Southwark, but with three stages. The first stage is answerable by the team that provides the service complained about. The second stage is provided by the Director General of Operations for the Department for Work and Pensions and the third stage is undertaken by an independent case examiner, which is the third stage for a number of DWP and Pensions services.
32. Benchmarking has shown a varied picture in London at comparable councils. For example Tower Hamlets receive around 1,200 member enquiries each month but far fewer complaints. If Housing is excluded, Lambeth receives more complaints and much more member enquiries. The situation may also be changeable, for example typically more member enquiries are received in the 12 months prior to elections than in other years.
33. It can be difficult to compare like for like boroughs, as the level of housing stock has a significant impact on the number and type of complaints received. Different practices for managing complaints can also have an impact on numbers logged.
34. The comparable statistics for complaints and MEs received in Lambeth Council are shown in appendix 1. The comparison is interesting as they receive more complaints corporately than Southwark and had an 11% escalation rate, much higher than Southwark's. However their comparable statistics from Lambeth Living, which runs their housing, are much lower. In April Lambeth Living began using a 'pre-formal' stage for complaints, which has significantly lowered the number of complaints they are recording. However, their escalation rate to stage 2 is 27%

Decision making process in determining a vexatious complainant

35. The emphasis of Southwark's complaint process over the last few years has been on resolution. Most customers are happy with this approach as they have made a complaint to achieve an outcome. Some customers remain unhappy with the outcome at stage 1 and will pursue the matter further, via a stage 2 review and the local government or housing ombudsman. A very small number of customers remain dissatisfied once this process has been concluded. Their persistence in pursuing matters can occasionally reach unreasonable levels. Some customers will also refuse to use the complaint process and will instead insist on communicating directly with senior managers. There are complainants who will only write to the Chief Executive.
36. Managing such complainants creates a pressure on time and resources. Some complainants can also be very abusive both to and about staff and behave in a way that is considered inappropriate.
37. The Habitual Complaints procedure contains a clear definition of what sort of behaviour could potentially be considered habitual or persistent (appendix 3). Every case must be viewed on its merits, but the recent

examples of where the policy has been used have fit clearly within the definitions. There is also a clear sign off process, with a report presented to the chief executive with accompanying evidence.

38. Use of the policy has increased steadily since it was introduced in 2011. There are currently seven people designated habitual complainants under the policy. Warnings about behaviour are sent regularly to customers and they are informed about the possibility of use of the policy. The most common reason for issuing a warning using racist language in correspondence and telephone calls with the Council.
39. Usage of the policy is not taken lightly and the designation is generally time limited and is reviewed to see whether it remains applicable or if it should be lifted. Some of those designated as habitual have since been removed from the list. Those on the policy are given one point of contact to ensure they are still able to contact the Council and receive services from us.
40. Examples of types of behaviour which have led to use of the policy include violence and aggression towards staff, sending abusive comments to staff and sending a large amount of emails, for example a customer sent over 500 emails in one weekend. In 2013 a customer was designated habitual after sending repeated offensive emails, including about the residents who died in the Lakanal fire. In 2014 a customer was designated habitual after sending more than 400 emails to a senior manager.
41. A review of the policy will shortly be carried out, as it has been found that it is not comprehensive enough to cover all the situations recently encountered. The intention is to extend it to cover all types of customer contact, not just complaints.
42. This is also an opportunity to review the sign off process. As covered earlier, it is currently the chief executive. This does appear to be generally the right level of sign off, as removing a service from a customer should be treated as a serious matter and agreed at a senior level. However, where the chief executive has been directly involved with a complainant it is appropriate that there is an alternative sign off process.
43. Staff have reported that they find it challenging to deal with some customers. The Customer Resolution Team currently offers training on managing complaints and we are developing additional training on managing difficult customers, using the habitual complaints policy and investigating complaints about staff.

Appendix 1 - Cases received

Southwark cases received – April and May 2014

Service area	Stage 1	Member enquiry	Stage 2
Chief Executive	27	21	4
Environment	304	339	8
Finance & Corporate	108	72	4
Housing	798	772	58
Total	1237	1204	74

Lambeth Council (corporately) – April and May

Service area	Stage 1	Member enquiry	Stage 2
Total	579	731	66

Lambeth Living (Housing) – April and May

Service area	Stage 1	Member enquiry	Stage 2
Total	85	419	23

Southwark cases responded within target - April and May 2014

Period	Stage 1	Member enquiry	Stage 2
April and May 2014	72% (868/1204)	86% (1055/1231)	99% (78/79)

Southwark complaint outcomes - April and May 2014

Outcome	Stage 1	Stage 2	Total
No consent received from customer	2	0	2
Not upheld	510	33	543
Partially upheld	192	31	223
Stage 1 - No outcome, proceed to next stage	17	0	17
Upheld	483	13	496
Withdrawn	0	2	2
Total	1204	79	1283