

<b>Item No.</b> 4	<b>Classification:</b> Open	<b>Date:</b> 19.05.05	<b>MEETING NAME:</b> Cross-Party Working Group – Ouseley Review Implementation
<b>Report title:</b>		Investigation and Resolution of Outstanding Complaints	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Chief Executive	

## RECOMMENDATIONS

1. That the Working Group
  - Notes the progress made towards investigating and resolving the complaints and the process to be followed;
  - Notes the position with the other submissions received;
  - Notes the preliminary analysis of the wider issues of policy and practice raised across all submissions and the process to be followed in refining this analysis and ensuring that the issues are addressed;
  - Requests that a further report on progress towards resolving the complaints and clarifying the wider issues be brought back to its next meeting.

## BACKGROUND INFORMATION

2. There are eleven submissions from individuals and organisations in the annexe to the report by Lord Ouseley, containing a variety of allegations and complaints against the Council. Lord Ouseley also passed two further cases to the Council for investigation and resolution and a copy of a complaint against Southwark Race & Equalities Council.
3. Other than the complaint against SREC, there are a total of thirteen submissions. Eight of these could reasonably be described as, or as containing, specific complaints from members of the public, three concern the ongoing dispute around the Imperial Gardens Nightclub, one is offering suggestions to improve the planning process and one is from a former member of staff, alleging discriminatory treatment by their line manager.
4. In addition to the specific matters complained of or under dispute, many of the submissions raise wider issues about Council policy and practice, which will also need to be considered and addressed as part of the Council's response.

## KEY ISSUES FOR CONSIDERATION

### Investigating and resolving the complaints

#### Progress to date

5. In order to ensure a fair and thorough process, the investigation of each complaint has been placed in stage three of the Council's standard complaints procedure, the highest level. In line with that procedure, the Corporate Complaints team is managing the process on behalf of the Chief Executive and has retained an experienced consultant to conduct the investigations.
6. The submissions have been analysed in order to make a preliminary identification of the specific complaints made and the wider issues raised. All relevant documentation available to the Council has been collated and copied to the Corporate Complaints team. This analysis and background documentation has been forwarded to the investigating consultant, together with a copy of the original submissions and the details of key contacts in the relevant departments, enabling the process of investigation to begin.
7. It is normal practice for the Corporate Complaints team (and the Local Government Ombudsman) to decline to investigate complaints made more than twelve months after the complainant first became aware of the problem. In some cases, these submissions contain complaints dating back several years, regarding issues of which the complainant was apparently aware at the time. As allowed for within the procedure, these older complaints will be treated as exceptions to the rule and investigated alongside the more recent complaints. However, it should be noted that the older the complaint, the harder it is to establish facts and so provide a meaningful basis for resolution.
8. In one case under consideration, the complaint has already been through all three stages of the Council's complaints procedure. Although necessarily outside the procedure as such, this complaint will be reviewed alongside the other complaints, taking into account any further developments since it was last considered by the Corporate Complaints team.

### Process

9. The normal investigative process will be followed, including a review of available documentation and an initial interview with the complainant to clarify the basis of their complaint and distinguish it from any wider issues being raised by them in their submission. The investigation will cover those matters raised in the submission that are capable of being investigated as a complaint. The purpose of the investigation will be to establish whether or not the Council has acted in accordance with its policies and procedures and whether or not there has been any discrimination or discriminatory impact. In coming to a judgment on these issues, the advice of Legal and Social Policy officers shall be sought as appropriate.
10. Following the investigation of each complaint, the investigator will produce a report which will include an assessment of the sufficiency of the evidence, a judgment on the issues (where possible) and a determination of any appropriate remedy. A final response will then be made to the complainant, closing the complaints process, which will set out the findings in relation to their complaint, offering compensation if appropriate, and describing how the Council intends to tackle any wider issues raised by them. It will also remind them of their right to

take their complaint to the Ombudsman, should they remain dissatisfied with the outcome of the complaints process.

11. In terms of timescales, the aim is to complete the investigations by the end of June and finalise the responses to complainants by the end of July 2005.

### **Resolving the other submissions**

12. The dispute over the Imperial Gardens Nightclub is in a legal and insurance process. The Council has agreed up to £25,000 in legal fees for the claimants' solicitors to prepare key elements of their claim. The offer was made on 15 December 2004 and accepted early in the new year. To date, no further details of their claim have been received. Towards the end of April, a letter was sent to the claimants' solicitors requesting a progress update. Once received, the claim will be forwarded to the Council's insurance claims handlers to consider and advise on the most appropriate response.
13. The suggestions to improve the planning process made by a local resident have informed the preparation of the latest draft of the Council's Development Control policy. A detailed commentary on the suggestions has been fed back to the resident by the Development Control Group Manager.
14. The circumstances of the resignation of the former member of staff have been investigated by a senior manager from another division, in line with the Council's personnel procedures. He has prepared a preliminary report for the senior manager responsible for the relevant unit. His findings will be shared in outline with the complainant at a meeting to take place during May, before the report is finalised and appropriate action taken.
15. SREC has provided a copy of its response to Lord Ouseley, which sets out the circumstances in which the complaint against them arose and explains their response to the complainant.

### **Wider issues of policy and practice**

16. As well as specific complaints, many of the submissions raise wider issues concerning Council policy and the way it is carried out. A preliminary analysis suggests that these issues fall within three broad themes – regeneration and planning policy, issues with the Council as landlord, and community confidence – as detailed below.

#### *Regeneration and planning policy*

- A belief that the Council should go further than its statutory obligations in providing assistance or compensation to businesses affected by regeneration.
- A perception that the Council favours developers over existing (small) businesses and sees community consultation or involvement as obstructing development.

### *Issues with the Council as landlord*

- An expectation that the Council should not be driven by purely commercial considerations as a landlord but should take the circumstances of its tenants into account to a greater extent.

### *Community Confidence*

- A view that the Council has no true commitment to equality and diversity; although the policies may look impressive, they do not achieve their aims.
  - A belief that the Council picks and chooses who it wishes to consult with and avoids consulting with the wider BME community.
  - A view that the relatively low levels of BME representation among senior officers calls into question the reality of the Council's equality and diversity policies.
  - A perception that apparent process failures are in fact masking deliberate or inadvertent discrimination.
  - A belief that the Council treats BME-led community groups less well than white-led groups.
17. The perspectives on community confidence summarised above are also reflected in the main body of Lord Ouseley's report and should be addressed through the comprehensive implementation of his recommendations. The regeneration issues raised are being addressed through the implementation of Lord Ouseley's recommendations, the scrutiny of the Elephant & Castle being undertaken by the Regeneration & Resources Scrutiny Sub-Committee, the review of development control policy that is currently underway, and the implementation of the recommendations outlined in the report *Regeneration policies and the impact on SME/BME business* approved by the Executive on 2 November 2004. Officers will continue to refine their understanding of the issues raised through interviews with the complainants as part of the investigation process. Once that process is complete, the final set of issues will be cross-referenced with the Ouseley Implementation Plan and other relevant policies and plans to ensure that all will be satisfactorily addressed.

### **Resource Implications**

18. The fee for the consultant investigator is dependent on the time it takes to investigate each complaint but it is estimated that it will total in the region of £10,000, to be drawn from the resource allocated to implementing the recommendations of the Ouseley Report.

## APPENDIX A

### Audit Trail

<i>Lead Officer</i>	Bob Coomber, Chief Executive	
<b>Report Author</b>	Graeme Gordon, Project Manager	
<b>Version</b>	Final1	
<b>Dated</b>	11/05/05	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Borough Solicitor & Secretary	Yes	No
Chief Finance Officer	No	No
Executive Member	Yes	Yes
<i>Date final report sent to Constitutional Support Services</i>	11/05/05	