

Item No. 8	Classification: Open	Date: 7 JULY 2003	MEETING NAME Overview and Scrutiny Committee
Report title:		Scrutiny of Southwark's Central Complaints Handling	
Ward(s) or groups affected:		All	
From:		Head of Corporate Strategy	

RECOMMENDATION(S)

1. That Overview & Scrutiny Committee continues scrutiny of Southwark's central complaints handling by considering information provided in response to questions raised by Members on 15th January 2003, as set out at paragraphs 10-51 of this report.
2. That Members consider the actions [Appendix A] proposed by the District Audit review and the potential of complaints as a valuable form of customer feedback and a tool for service improvement.

BACKGROUND INFORMATION

3. On 15th January 2003, Overview & Scrutiny Committee began scrutiny of this matter by receiving a background report on the corporate complaints procedure, and discussing this with the Head of Communications and Customer Relations. A number of specific queries arose from discussion and this report provides answers to those queries. In addition, this report provides a summary of complaints data for the year 2002/03 and details of the findings of the recent District Audit review of complaints.

KEY ISSUES FOR CONSIDERATION

4. District audit report

District Audit were invited to review the council's complaints procedure to:

- Carry out an independent review of the complaints procedure to ensure that complaints were resolved locally wherever possible
 - Consider whether the system encouraged service improvement
 - Consider complaints within housing, and in particular the role and function of the Tenants and Leaseholders Arbitration Panel
 - Review the cost effectiveness of the overall complaints procedure
5. Their review covered the two largest areas for complaint within the council – housing and revenues and benefits, as well as the Customer Feedback Unit. Their conclusions coincided with areas for improvement already identified in a recent report to Chief Officer Team and are set out below:

"The Council has adopted suitable and clear procedures and policies for dealing with complaints from members of the public and Councillors. The policies and procedures have been formally adopted by Councillors as part of a wider Customer First Strategy, and have been effectively implemented across the Council with a single computerised

recording system.

6. The corporate procedure had been adopted in the two departments reviewed as part of this audit, and both had established a performance monitoring process. However, there is currently no corporate standard or formal corporate mechanism for reviewing the performance on complaints and overviewing the trends and linking this to customer service strategies.
7. The Council does not have a way of knowing how the performance of the individual departments compare or what the overall Council wide performance is. The Council cannot make any assessment of the cost effectiveness of the complaints procedure as it does not record information on the overall cost of the scheme. There is also no monitoring of the impact of the scheme in terms of the numbers settled locally.
8. The Arbitration process has not been formally reviewed since the policies and procedures were introduced, and it is not linked to other corporate policies. The Council's Arbitration process is fairly unique and has been long established with good satisfaction ratings from those who use or are involved in the process. The Council has not made any strategic overview of whether the process could be more widely used as part of the corporate Customer First initiative or as a more effective way of resolving disputes with residents without the need for litigation. "
9. District Audit proposed a series of actions arising from their review and these are attached at **Appendix A**.
10. **Response to queries raised by Overview & Scrutiny Committee on 15 January 2003**
11. **The CASE A situation**
12. ***Background to the complaint***
Mr X has been involved in ongoing correspondence (mostly with councilors) regarding
 - An increase in service charge
 - A possible business grant
 - Concerns about the renewal of his tenancy once the lease of his business property reverts to [a named] insurance company.
13. ***Action Taken***
In August 2002, Councillor Humphreys wrote to Mr X explaining that the issues he had raised were not suitable for discussion at Scrutiny Committee. Instead he suggested that Mr X should use the council's complaints procedure and passed the info to the Customer Feedback Unit (CFU).
14. The CFU followed the council's complaints procedure and passed the complaint on to the department to give them an opportunity to resolve the problem locally.
15. The departmental complaints officer wrote to Mr X asking for further details of the specific issues of the complaint. It is unclear from the paperwork whether the departmental complaints officer was already aware of the complaint.
16. To save Mr X the trouble of restating the details of his complaint those who had already been involved in the case were asked to send copies of their paperwork.
17. On 13 September 2002 a response was sent to Mr X. This explained that the charges were appropriate (giving a breakdown) and that the Council would consider a payment

arrangement. It also reconfirmed that the Council was in a position to offer a new lease. The fact that Southwark does not give business grants had already been explained to Mr X. There appears to have been no correspondence since this time.

18. **Outcomes and Learning Points**

The complaint itself was resolved within the department within a month of being forwarded to the department by the CFU.

19. If the Respond system had been installed in the Regeneration Department at that time, the departmental complaints officer would have known there was a file of evidence available which would have saved writing to the complainant for details.

20. **Suitability of standard responses to complainants**

There are no standard responses to complainants, although the Respond system does include examples of acknowledgement letters, and standard phrases which need to be contained in letters – for example, the right to a review or to apply to the Ombudsman. The details of the specific complaint circulated at the meeting are as follows:

21. **Background to Complaint**

Ms W, who has both physical and mental health problems, complained that

- Social Services' assessment that she requires 2 hours of care per fortnight was not adequate
- Social Services failed to respond to her requests for a review of the above care package
- Occupational Therapy and Disability Services closed her case files
- Occupational Therapy was not willing to make adaptations to her property
- She has not been allowed to pay for her care needs, by using the direct payments scheme
- That she received food from the Meals on Wheels services, which contained [named food], contrary to her specific request

22. **Action Taken**

Ms rejected the original care plan on the basis that Social Services' assessment of her needs was not adequate. At that time there was a minimum limit on the charges that could be collected using direct debit.

23. Since she had rejected the care plan it was difficult to respond to her requests for a review and Social Services closed the case, although Ms W still had access to a duty Social Worker.

24. Following Ms W's complaints, a case conference was held in December 2002, attended by a member of the CFU. As a result of the case conference, Ms W was allocated a mental health social worker. Social Services designed a new care package, which she was willing to accept. As a result of the new DoH guidelines Ms W is now able to pay by direct debit. Occupational Therapy have made 3 adaptations to the property, i.e. level shower access, raised electrical sockets and new taps. Early in 1999, following a request from Ms W, her meals on wheels were cancelled. Consultation with the meals on wheels service however confirmed that all clients including Ms W are offered a choice of two hot meals and one cold, containing a variety of meats and other foods.

25. **Outcomes and Learning Points**

Customers with mental health/learning disabilities need to be treated with empathy and respect. The CFU has had many conversations with Ms Y and the letter circulated at the meeting was an attempt to put into simple language the facts as they were. Until the new

DoH guidelines came into force, there was no further action which could be taken at that stage.

26. **Delays in casework on a complaint by one of Cllr Simmons' constituents not having been pursued in the absence of the responsible staff member during summer 2002**

27. Despite thorough checks, the CFU has been unable to uncover any delays in casework during summer 2002, other than the following planning issue:

28. ***Background to Complaint***

Ms Z complained that the request for planning permission did not show access to a garage to which she objects.

29. ***Action Taken***

This was fully investigated under the provisions of the Town and Country Planning Act 1990. Although alterations to the front elevation were in breach of the planning legislation, it was decided on this occasion that it would not be expedient to take enforcement action as the changes were visually sympathetic with the buildings and did not adversely affect the occupiers of adjoining premises.

In September 2002, the CFU received a complaint from Cllr Simmons, which was forwarded to the relevant department. The department sent a response on 24 September. In January 2003, Cllr Simmons asked the CFU to review the outcome. As the officer dealing with the case was on leave for part of the period he informed Cllr Simmons that the response would be sent by 5 February, which was 4 days past the prescribed time target. As Cllr Simmons did not inform the case officer that he required a response sooner, the response was sent as promised on 5 February.

30. A copy of the complaints procedure is attached at ***Appendix B***.

31. **Breakdown of Respond licences by department**

The Council currently has a license, which allows up to 79 concurrent users of Respond Centrepoint. These are broken down as follows:

- Education & culture – 6 (including 3 with Atkins)
- Environment & Leisure – 11
- Housing – 4
- Regeneration – 4
- Strategic Services – 15 (including CFU & Liberata)
- Social Services – 39

32. We know, however, from a test run on the server in December 2002 that this figure does not reflect usage. Itnet and the Customer Feedback Unit are currently establishing a more accurate picture of who accesses the system on a regular basis, to make a judgment about the ratio of authorized users to licences, which the system will allow. The possibility of a time-out system which will ensure that occasional users are automatically logged out after an agreed period of time, is also being investigated.

33. **Details of the IT rollout programme, including timetable for resolution**

It was originally planned to introduce Touchpoint for front line face-to-face staff. However, following discussions with other authorities and the knowledge that this will be phased out with the introduction of Netpoint, departmental complaints officers and IT reps met with Respond in May to discuss the next stage of the roll out and to recommend

the most appropriate way forward for the Council. The outcome of this meeting is likely to be another system that will enable web-based access to Respond.

34. **Local Government Ombudsman [LGO] letter in respect of CFU's performance on LGO complaints**
Attached as *Appendix C*
35. **Data Protection protocol in relation to complaints**
The Data Protection Act 1998 regulates the way in which organisations can use personalised information. A vital tenet of the act is the principle of complainant consent. One of the act's directives defines "the data subject's (i.e. the complainant's) consent" as:

"...any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed"
36. A complainant must "signify" his/her agreement by some active communication, which does not necessarily have to be in writing. In terms of complaints, it can be assumed that agreement has been given if a person has asked the Council to respond to his or her complaint. However, only those whose involvement is necessary to the effective processing and monitoring of the complaint are entitled to have access to a complainant's personal details.
37. Personal details cannot be discussed with, or information disclosed to a third party without the written permission of the complainant. Where an advice worker or solicitor is making a complaint on someone else's behalf, they must obtain a letter of authorisation.
38. When dealing with local authority complaints and enquiries, there is a specific policy covering the disclosure of personal data to Members and MPs
- When the Member represents the ward in which the complainant lives, that person's consent is presumed, unless the data is particularly sensitive
 - When the Member is an Executive Cabinet Member acting either at the request of a ward Member representing a complainant, or at the request of a complainant on a matter within that Cabinet Member's portfolio, the consent of that person is presumed, unless the data is particularly sensitive
39. In most other circumstances written permission should always be sought unless the nature of the request does not involve the release of personal data (e.g. a member chasing up whether a Housing repair has been actioned) when managers may exercise discretion in order to assist a Member.
40. **Using Respond outputs as a management tool**
A sample of reports is attached for the year 2002-3 at *Appendix D*. It should be noted however that during this time, Respond was still not being fully used council wide and it is likely that there are some complaints which have not yet been logged on the system. For the same reason, it is not possible to show any meaningful information on the reasons for escalation – partly because the process can take some time - people have up to twelve months after making their initial complaint to take it to the Ombudsman.
41. In terms of compensation, it is clear that the council can save substantial sums of money if complaints are tackled at Local Resolution stage, rather than allowing the person to escalate (the attached charts show this) the complaint to the Ombudsman.
42. 210 complaints were received via the Ombudsman. This compares with 314 in 2000-1, and 271 in 2001-2, in spite of new regulations which now enable people to complain directly to the Ombudsman, without having to go through the council's internal complaints

procedure. In five cases, maladministration and injustice were found – two in Housing and three in Revenues and Benefits.

43. A more detailed report can be produced in August, when the Ombudsman produces his own table of local authorities and his own comments on standards.

44. **Address the way in which complaints arising from the planning decision process are handled and monitored corporately, including consideration of the implications of potential legal challenge for planning officers in their complaint handling**

This has been answered in 3 above. All statutory complaints procedures (whether for Social Services, Education, Parking etc) are followed and also logged on Respond to enable the CFU to monitor. If complaints are escalated to the Ombudsman the CFU plays a key role in managing the case.

45. **Consider whether it is most appropriate/effective for departments to handle complaints against themselves, or whether a more independent agent should deal**

It is important to have a system that allows service providers the first opportunity to put things right for a number of reasons

- Service providers and front line staff feel empowered to take the initiative to resolve issues
- This is likely to result in a speedier and less costly resolution
- It makes them not only responsible but accountable which provides an incentive to learn from mistakes
- It provides the impetus for service improvement
- It avoids internal and ultimately external embarrassment
- It improves customer relations

46. What is crucial in this process is that these complaints are monitored centrally, as well as departmentally through reports to Chief Officer Team and to the Executive. This is a gap that was picked up during the recent District Audit review.

47. **Consider whether the authority's complaints management is sufficiently systematic**

The Local Government Ombudsman has approved Southwark's new complaints procedure. However, the existence of a procedure does not guarantee its application or ensure that complaints are resolved effectively if it is followed in a purely administrative fashion. The actions suggested by the District Audit review will go some towards establishing a minimum quality standard across the council for the way in which all complaints are handled.

48. **Complaints Leaflet – currently makes no reference to sources of assistance should Council's complaints mechanisms be exhausted**

The new complaints procedure clearly states that the complainant has further redress via the Ombudsman if s/he is not happy with the Council's response after a review has taken place.

49. **The impact of establishment of Community Council's on complaints handling/resolution, the Role of Members, adaptation of procedures and rules**

It is important that complaints, suggestions and compliments received by community councils are logged into the council's corporate system so they can be effectively monitored. Customer feedback forms have been specially printed with the community council logo, for residents attending community council meetings to complete.

50. These are logged on to Respond and forwarded to departmental complaints officers in the usual way.

51. **Consideration of deputations and petitions as complaints**

If a deputation or petition made to the Council concerns a complaint it should of course be recorded on Respond under the name of the spokesperson of the group. However, many deputations received by the council are of a lobbying nature and it is probably not appropriate to record such representations to the Council as complaints.

RESOURCE IMPLICATIONS

52. There are no resource implications anticipated as a result of this scrutiny.

CONSULTATION

53. None.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
<i>Southwark Council's Corporate Complaints Procedure Customer Feedback Form</i>	<i>Customer Feedback Unit</i>	<i>Amanda Hirst</i> 020 7525 7312 amanda.hirst@southwark.gov.uk

Audit Trail

Lead Officer Amanda Hirst, Head of Communications & Consultation
Report Author Jeanie Martin, Customer Feedback Manager
Version Final
Dated 26 June 2003

CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER

Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	No	-
Chief Finance Officer	No	-

APPENDIX A

Finding	<i>Conclusion</i>	Recommendation	Priority (H/M/L)	Response	Responsibility	Target Date
R.1						
<p>The Head of Communications and Customer Relations identified that there is a gap that needs to be filled in the performance information provided to the Executive. Although the Housing and the Revenues and Benefits Departments have established their own monitoring frameworks, there are no corporately set criteria The Council needs to establish a corporate standard and monitoring mechanism to review performance and trends.</p> <p>She is due to provide in April a report to Chief Officer Team and Scrutiny in which she intends to pick up the issue of the lack of overview.</p> <p>She welcomes the feedback from this review and would like to be able to use it for her report to the Executive.</p>	<p>There is currently no Corporate standard or mechanism for formally reviewing the performance on complaints and overiewing the trends and linking this to customer service strategies.</p>	<p>Ensure that the mechanism for a regular strategic overview of the performance on complaints is defined.</p>	<p>High</p>			

Finding	Conclusion	Recommendation	Priority (H/M/L)	Response	Responsibility	Target Date
R.2						
<p>There has been no performance criteria set for the Customer Feedback Team to report on, although the Respond system can produce reports in a variety of ways.</p>	<p>There is no standardised method for reporting performance across the Council and Departments monitor their own performance for their own purposes.</p>	<p>Ensure that the performance management framework for Complaints is defined across the Council with a clear hierarchy from the strategic to the operational level.</p>	<p>High</p>			
R.3						
<p>The Council does not currently compare performance across departments. It is left to the individual departments to identify the information it requires from the corporate recording system and then to use it for its own monitoring purposes. The Council does not regularly report on its performance compared to other councils.</p>	<p>There Council does not carry out internal or external performance benchmarking.</p>	<p>Establish a benchmarking framework so that performance is regularly compared across departments and with other Councils and trends can be analysed as a tool for continuous improvement.</p>	<p>High</p>			

Finding	Conclusion	Recommendation	Priority (H/M/L)	Response	Responsibility	Target Date
R.4						
<p>Information is not recorded in a systematic way about the cost of administering the complaints procedure. There is no central record of the level of compensation paid. The available information about the proportion of complaints settled at a local level is not widely used.</p>	<p>The Council cannot make any assessment of the cost effectiveness of the complaints procedure as it does not record information on the overall cost of the scheme. There is also no monitoring of the impact of the scheme in terms of the numbers settled locally.</p>	<p>The Customer Feedback unit should overview the overall cost to the Council of the Complaints process and introduce performance monitoring of the effectiveness of the Council in achieving resolution of complaints at the lowest possible level.</p>	High			
R.5						
<p>The Arbitration policies and procedures have not been updated for over 7 years and they do not include references to other corporate policies.</p>	<p>The Arbitration process has not been formally reviewed since the policies and procedures were introduced, and it is not linked to other corporate policies.</p>	<p>Formally review the Arbitration policies and procedures to update them in the light of the current corporate public Access Strategy</p>	Medium			

R.6				
<p>The Arbitration Process precedes the Councils' Customer First initiative. There is no strategic overview of the Arbitration process and how this may link to the Complaints process in furthering the Customer First initiative or with litigation. Compensation and legal costs of disrepair for example amounted to £11.27m between 99/00 and 02/03.</p>	<p>The Council's Arbitration process is fairly unique and has been long established with good satisfaction ratings from those who use or are involved in the process. The Council has not made any strategic overview of whether the process could be more widely used as part of the corporate Customer First initiative and whether it is a more cost effective way of resolving disputes with residents without the need for litigation.</p>	<p>The Council should use the principles of best value to review the effectiveness of Arbitration and the links to the Complaints process and litigation.</p>	<p>Medium</p>	

Southwark Council's Compensation Procedure

Compensation is just one of a number of remedies which may be used to bring a complaint to a satisfactory resolution. Whilst it is not always the only or best solution it may be appropriate where the Council's action or inaction has resulted in any form of injustice and in certain other circumstances. When this is the case it should be considered at the earliest possible stage, so that the complainant is not caused the additional worry or distress of having to escalate his or her complaint.

The aim of this policy is to achieve a consistency of approach across the Council so that as far as possible similar complaints receive similar compensation. However, it is vital to remember that each complaint must be considered on its own merits, in the light of the particular facts of the case in question. For example, unnecessary stress and uncertainty is likely to have a far greater impact on someone who is vulnerable because he or she is elderly and mentally frail.

When Might Compensation Be Warranted?

Financial redress might be considered appropriate if:

- the Council has done something it should not have done or failed or delayed in doing something it should have done, causing injustice
- there is no practical action which would provide a full and appropriate remedy
- the complainant has sustained loss or suffering
- the Ombudsman would find that there has been maladministration resulting in injustice and would recommend compensation

What Factors Should Be Considered When Assessing Compensation?

Compensation must take full account of all the facts of the individual case. It is essential to avoid over-simplistic generalisations and to make an assessment based on the following elements.

Has the complainant's own action or inaction contributed to the problem?

- The complainant failed to provide the necessary proof to support a Housing Benefit application.
- A tenant continually failed to grant access so that a repair could be carried out.

Does the Council owe the complainant money which has not been paid?

- The Council failed to refund an overpayment of Housing Benefit.

NB: Making a refund should be fairly straightforward. However, it may also be necessary to pay interest if the refund was not paid when it should have been and/or the failure to pay caused the complainant to incur expenditure which otherwise would not have been necessary. Interest should be calculated at the County Court rate.

Has an error on the part of the Council caused the complainant, quite reasonably to incur costs?

- The parents of a child with a statement of special educational needs paid for additional help because the Council delayed in meeting the provision set out in the statement.

NB: Only actual costs, which it was reasonable for the complainant to incur, should be considered.

Has the complainant been denied a non-monetary benefit because of the Council's mistake?

- A tenant has been unable to use a room in his or her flat for some time because of the Council's failure to complete repairs.
- A child has been excluded from school and therefore denied education because of a delay in making suitable alternative provision.

NB: Sometimes it may be possible to use an objective measure to quantify this type of loss, such as a proportion of rent related to the loss of the use of a room. When no objective assessment exists a reasonable broad assessment must be made. However, the level of injustice suffered cannot always be redressed in this way and in such cases the impact on the complainant must be considered as for example, if a disabled tenant was denied the use of a specially adapted room.

Has something owned by the complainant lost value because of a Council error?

- A tenant's possessions are damaged by water penetration because the Council failed to make timely repairs.
- There is devaluation of property because of loss of amenity as the result of the granting of planning permission.

NB: Where possible an objective assessment of the loss should be sought.

Has something the Council did or failed to do led to the complainant being deprived of an opportunity?

- A customer is denied the opportunity to lodge a Housing Benefit appeal because the Council did not inform him or her of the right to appeal.

NB: Any payment of compensation should take account of the degree to which it is possible to be certain of the outcome of the loss of opportunity as opposed to the loss of opportunity itself.

Has the Council's error caused inconvenience, stress, anxiety, frustration, worry or uncertainty to the complainant?

- A disabled person suffers stress, anxiety and uncertainty because of an unreasonable delay in a community care assessment.

NB: When making an assessment of compensation for these types of distress it will be necessary to take account of the number of people affected and their personal circumstances, the severity of the distress and the length of time involved. Any payment will need to reflect all these factors and could be substantial in cases of severe or prolonged distress.

Has the Council's mistake caused the complainant to pay for professional advice such as the services of a consultant or solicitor?

- A customer, who received inaccurate and inconsistent advice from Council planning officers, employed the services of both a solicitor and independent planning consultant to assist him in resolving the complex issues surrounding whether or not he required planning permission.

NB: In these cases compensation should only be awarded if the nature of the complainant's difficulty in resolving the complaint directly with the Council and the consequent maladministration made it reasonable for him or her to incur such expenditure. However, where the amount of professional advice commissioned was disproportionate it may be appropriate to reimburse only that expenditure incurred from the point at which it was justified.

Has the complainant been put to considerable time and trouble in pursuing the complaint?

- A complainant had to write several letters and make numerous phone calls before the Council treated the matter as a complaint and it then took a further six months to resolve.

NB: The time and trouble spent by the complainant in trying to resolve the complaint must not be confused with the distress caused by the Council mistake which led to the complaint. Compensation should only be paid where the costs, time and effort incurred were more than those usually associated with making a complaint. In order to make an assessment it will be necessary to consider:

- how long the Council took to resolve the complaint and whether its actions were deliberate or simply negligent;
- the time and effort required from the complainant to pursue the complaint and any difficulties experienced;
- the adequacy of any previous responses;
- the cost of minor or generally unquantifiable expenses such as significant postage or telephone costs, loss of earnings or travel costs.

NB: A time and trouble payment which forms part of a Local Settlement is usually likely to be less than such payments when recommended by the Ombudsman in a formal report finding maladministration and injustice.

Has the Council's action or inaction deprived the customer of interest?

- A Council tenant was entitled to a refund of an overpayment of rent and the Council unreasonably delayed in making the payment at the proper time.

NB: Interest should be calculated at the County Court rate up until the date on which payment is made.

Can the Council offset compensation against a debt?

Where the complainant owes the Council money, such as rent or Council Tax arrears it will usually be appropriate for any compensation to be offset against the debt. However, this would not be the case if the debt was in dispute (because there is an outstanding benefit appeal) or the compensation is being awarded for a specific purpose such as redecoration after repairs.

How should compensation be calculated when a number of different factors are involved?

All parts of a compensation payment should be cumulative.

- A tenant issued with a Notice of Seeking Possession (NOSP) because a benefit application takes six months to process, despite repeated letters and telephone calls, should receive a compensation payment made up of an amount for:
 - the wrongful issue of a NOSP;
 - delay;
 - time and trouble.

How should complaints affecting several people be addressed?

Where the Council's mistake has affected a number of people compensation for the error and its consequences should be paid to all those concerned. However, only the customer(s) who actually pursues the complaint should receive an amount for time and trouble, if appropriate.

- A trust takes up a complaint about the delay in assessing and paying benefit to residents in accommodation which it provides for people with mental health problems. A payment for delay and distress will be due to all those residents affected by the delay but the time and trouble payment will be made to the trust.

What wording should be used when paying compensation?

The complainant should be given a full explanation of the reasons for paying compensation and be told when payment will be made. The words 'full and final' settlement and 'without prejudice' should never be used and compensation should always be 'paid' not 'offered'. However, the complainant has the right to appeal unless the amount has been agreed with the Ombudsman.

Should contractors pay compensation?

Where appropriate the Council's contractors should be encouraged to pay compensation. If the Council has to pay compensation for a mistake made by a contractor (to avoid unacceptable

delay in making redress) it should invoke the relevant penalty clause in the contract in order to ensure that the Council is reimbursed. However, the Council should not let a contractor's reluctance or refusal to pay delay payment once an assessment has been made.

How long should it take to make a compensation payment?

Payment should never take longer than four weeks but if unforeseen circumstances result in unavoidable delay the complainant must be informed immediately and if appropriate the Ombudsman too. It will be the responsibility of the Head of Service (Service Manager) and Directorate Complaints Officer to ensure that payment is made. A complaint will not be closed until **all** remedial action has been carried out.

What if there is a contractual or statutory obligation to pay compensation?

The fact that there is a contractual or statutory requirement to pay compensation does not necessarily mean that the Council's responsibility to consider redress ends there. Assessing each case on its own merits involves looking at the circumstances in which such penalties became payable and considering whether the overall assessment needs to reflect other factors.

Who can authorise a compensation payment?

It is the responsibility of Business Unit Managers to authorise compensation payments in accordance with the system of delegated responsibility which applies in their respective departments.

How will compensation payments and refunds be recorded and monitored?

The following details of compensation and refund payments must be recorded on the Council's Corporate Database:

- the reason for the payment;
- the amount to be paid including a breakdown;
- the date of the award;
- the payment date;
- the nature of the payment.

The Customer Feedback Unit will monitor the payment of compensation and refunds and will provide reports for Directorate Management Teams and Chief Officers Team.

Using the Compensation Guidelines and Appendices

It is extremely unlikely that any two cases will be exactly the same and It is for this reason that it is impossible to provide a menu of remedies for every situation. Each case must be considered on its own merits. Therefore, when assessing how much compensation to pay **all** the factors which might attract compensation must be considered and an appropriate level of compensation built up by combining the amounts for the various elements.

To give some indication of appropriate financial compensation a series of tables has been produced which, where possible, set out common issues, the conditions in which they would attract compensation and the level or multiplier (e.g. 4 weeks delay at £4 per week = £16.00) which is thought to constitute good practice, and other factors to be considered in conjunction

with those particular elements. It has only been possible to be specific where an element matches or can be likened to an existing precedent, and a series of such examples has been given for both Housing and Revenues & Benefits. However, for many types of complaints, it is not possible to do this and so general remedies and detailed examples of Ombudsman cases have been provided as a guide to arriving at financial remedies. You will note from these examples that in some cases the Ombudsman breaks the compensation down into its various elements to show how the amount is made up whereas in others an overall figure is quoted. If you decide to adopt the latter approach you will need to record both on Respond and in the file how this figure was arrived at. You should use the information in the appendices to help you devise appropriate financial remedies.

List of Appendices

Appendix 1 Compensation Remedies – General

Appendix 2 Compensation Remedies – Revenues & Benefits

Appendix 3 Examples of LGO Cases Dealing with Revenues and Benefits*

Appendix 4 Compensation Remedies – Housing

Appendix 5 Examples of LGO Cases Dealing with Housing*

Appendix 6 Examples of LGO Cases Dealing with Social Services*

Appendix 7 Examples of LGO Cases Dealing with Environment and Leisure*

Appendix 8 Examples of LGO Cases Dealing with Regeneration*

Appendix 9 Examples of LGO Cases Dealing with Education*

NB In order not to over-burden members with huge amounts of paper, these will be circulated to those people who are interested at the meeting. However if you would like a copy in advance of the meeting, please call Amanda Hirst on 7525 7312.

** The names in these synopses are the pseudonyms used in the LGO published reports.*

What should I do if I am concerned about setting a precedent?

When considering compensation many people are worried about setting a precedent, especially if the problem which is the subject of the complaint is already affecting a number of people. If you find yourself in this situation you should remember that if the complaint is escalated to the Ombudsman the matter of precedent will be secondary to the Ombudsman's primary concern: how has what the Council did or failed to do affected the individual(s) involved?

Therefore, before you decide against paying compensation you will need to give careful consideration to the following:

- is the Ombudsman likely to award compensation?
- will the Ombudsman's decision be just as likely to set a precedent?
- will you end up paying more compensation if the matter is escalated to the Ombudsman?
- will you reduce the possibility of an LGO report finding maladministration and injustice against the Council by settling at an earlier stage?

AND ABOVE ALL

-
- will you be reducing any additional distress and time and trouble to the complainant by making appropriate redress at the earliest possible stage?**

Where can I get advice about calculating compensation?

Advice about remedies, including compensation and refunds can be obtained from the Directorate Complaints Officer or the Customer Feedback Unit.

Why it makes sense to pay compensation at the earliest possible stage

It should go without saying that it is only fair and just to ensure that, where a financial remedy is appropriate, it is paid at the earliest possible stage. This should be the case whether a complainant knows his/her rights and is seeking compensation or whether the individual is unaware of the fact that the case merits financial redress, perhaps because she/he is vulnerable.

Apart from the moral imperative, It also makes good business sense. Financial remedies paid at the earliest possible point are likely to be far less than any remedy which is agreed as part of a local settlement for an Ombudsman complaint, the amount of which might again be increased if the Council fails to settle and the Ombudsman issues a maladministration and injustice report.

So the message of this complaints procedure is:

Settle early

Pay less

Save money

and

Spend what you save on improving services!

APPENDIX C