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To: Policy and Resources Committee
Date: 10 September 2024
Subject: Customer Feedback Policy Updates
Classification: Unrestricted

Summary: This report outlines the changes to the Customer Feedback Policy and the key reasons for the Council not adopting the LGSCO's Code for Complaints Handling timescales.

1. Introduction

- 1.1 In Autumn 2023, the Local Government and Social Care Ombudsman (LGSCO) consulted on the potential introduction of a new code of conduct. The code looked to streamline processes so that they are consistent across all of England's Councils. Timeliness and consistency across all councils played a big part in the Ombudsman's reasons for wanting to introduce the code. Kent County Council responded with robust reasons as to why the proposed changes should not go ahead.
- 1.2 The outcome of the consultation was published on 8 February 2024. The Ombudsman launched the code in February 2024 with a view to Councils adopting it by 2026/27.
- 1.3 This paper is intended to set out the reasons for the Council not proceeding with the code at this present time but to state our intention to do so once the Council has improved its current position in relation to the timescales for complaints handling.
- 1.4 Key performance targets and activity indicators on the level of and response times to complaints are reported on in the Performance Dashboard, which is discussed at Policy and Resources Cabinet Committee on a quarterly basis. The latest of these papers is referenced at the end of this report.
- 1.5 An annual report on customer feedback is presented to Governance and Audit Committee. The latest report looking at 2023/4 will go to the October meeting of that Committee. This includes details of the annual letter from the LGSCO which offers valuable opportunities to learn and improve. This year's letter, whilst noting that the Authority had not successfully implemented LGSCO recommendations in 2% of cases, commented that "officers have engaged constructively in meetings with my Assistant Ombudsman during 2024, setting out plans to improve your complaint handling functions. I am pleased you are committed to resolving the situation."

2. Code summary

- 2.1 The code does not impact statutory timelines already set out in the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 for Adult Social Care complaints and for those eligible for Children Act Complaints process but all other complaints for example, SEN, Highways, Education will be impacted.
- 2.2 For Stage 1 complaints the code allows for acknowledgements to be given within 5 days of receipt, followed by a 10 further days for a response. Any extension should be no more than 10 working days without good reason, and the reason(s) should be clearly explained to the individual. Councils are also obliged to provide the LGSCO's details to the complainant at this point.
- 2.3 Stage 2 follows the same acknowledgement within 5 days and 20 further days for the response. Complainants are not compelled to state why they want an escalation.
- 2.4 MPs and Member enquiries can be dealt with however the Council deems appropriate, but it is considered to be good practice to tell residents that they can use the complaint route instead.
- 2.5 The code gives guidance regarding performance reporting. A self-assessment form has to be completed annually and provided as part of the annual reporting of complaints. This also has to be completed following "a significant restructure, merger and/or change in procedures." This will be challenging for us due to our size and constant change.
- 2.6 There is also a line regarding reporting more widely, "organisations should report back on wider learning and improvements from complaints to stakeholders, such as citizens' panels, staff and relevant committees."

3. The Council's current position according to Self-Assessment tool

- 3.1 The LGSCO has developed a self-assessment tool, which Councils are expected to complete to determine the health of their complaints handling. Appendix A holds a completed copy of the self-assessment based on the Council's current position.
- 3.2 With the exception of the time to respond to stage one complaints, the Council broadly is in line with the Ombudsman's ambitions under the code. Sufficient dedicated resources are available within the complaints teams except when there are consistently high numbers of complaints in a particular area leading to service backlogs

4. Potential performance impact

- 4.1 The current KCC policy allows for 20 working days at stage one. We acknowledge our complaints within 3 days but set the clock running from working day of receipt. Our current Key Performance Indicator for responses

within that timescale is set at 85% but this has not been met for a number of years. Performance currently is at 67% (August 2024), largely due to a backlog within Special Educational Needs and Adult Social Care and Health.

- 4.2 Adults and Children Act complaints are exempt from this code, as are service requests. So this position could improve to some extent under the new code. For example, Adult Social Care complaints are allowed under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 makes provision for customers and the complaints team to set the timescales for responding. This can be up to 6 months for the most complex of cases, and means that complaints will often not meet the 20 working day KCC standard. This is because an agreement with the customer has been formed to allow for more time to investigate and respond.

Under the code these complaints would be exempt from the described timescales.

- 4.3 However, the vast majority of our complaints come under the Corporate Complaints procedure, which means that a significant volume of complaints will be expected to be handled in this way, including complex areas such as Special Educational Needs (SEN).

- 4.4 The council has three options regarding this new code of conduct:

1. Adopt the code and aim to meet the new standards immediately

In order to maintain our benchmark of 85% and meet the new code standards, it would be necessary to significantly increase the number of staff managing complaints in the dedicated complaints teams. Currently the teams are managing unsustainable caseloads, and the proposed shortening of timescales will make it harder keep up with the pace required.

The number of staff needed in the front line to respond to complaints would also need to be increased, to enable capacity to respond quicker to complaints. This is expected to be significant in terms of cost to the organisation.

2. Acknowledge and accept lower benchmark for complying with the response timescales.

An alternative is to reduce the floor standard benchmark for handling complaints within the prescribed timescale. This may bring criticism and runs the risk of reputational damage if Ombudsman prescribed timescales are routinely missed. Whilst this option may lessen the impact on staff resources in the service, there will still be a drive to respond in the prescribed timescales to meet any new benchmark.

Whilst there is an argument that says complaints teams should prioritise those it knows can be responded to in time to help achieve the benchmark, it is not always possible to tell which cases will or will not be responded to in time, in advance.

3. Maintain KCC's current policy and intend to meet the LGSCO code when practicable

This would enable the Council to continue putting efforts into achieving its current standards and work towards achieving the code when practicable to do so.

- 4.5 It is proposed that the Council adopts option 3. The risk with not adopting the LGSCO code and instead maintaining existing timescales is that as currently we are not meeting these we will be open to more criticism than previously from the LGSCO. However, it will be made clear that the Council aims to meet the code when practicable to do so.

5. Risks in accepting the timelines outlined in the Code

5.1 Prioritisation of work

- 5.1.1 The Council has limited resources and recognises and prioritises the handling of complaints within that. But it is important not to create a situation where unrealistic timelines mean that instead of being able to work on substantively resolving issues, staff are impeded by the need to respond to additional complaints because those timelines have not been met. In short, these proposals risk collapsing not just the complaint system but whole sections of service.

- 5.1.2 For example; a 10 day turn around in a service such as Soft Landscapes where we receive large numbers of complaints at a particular time of year, means that we are asking the very people who are working hard to complete a programme of work to avoid complaints to prioritise complaints over completing the work that caused complaints in the first place, creating a catch 22 scenario.

- 5.1.3 This is also true of many other high-volume services such as Blue Badges, SEN, Highways and Waste.

5.2 Resourcing

- 5.2.1 Staff morale is likely to be impacted in complaints teams where there has already been backlogs and the churn of complaints received and responded to by the Council is high. It is likely that even with a drop in performance timeline expectations staff will be adversely affected by timescales, and we are likely to see attrition and staff turnover. This will impact relationships with teams, knowledge and support to staff on the front line.

- 5.2.2 The point of an effective and efficient customer service complaints team is to ensure that customers get a fair hearing and that lessons are learned from where we have got things wrong. Rushing investigations means that this is a likely casualty and therefore does not result in better outcomes for either the customer or the Council, which should be learning from mistakes.
- 5.2.3 The potential change in timescales also carries a significant risk for front line staff. The organisation has little room for manoeuvre in how it operates in relation to complaints handling, and a large part of why timescales are not met is workloads. Any change in timescales puts significant pressure on those staff too.

5.3 Impact to investigations and issues resolved at stage one

- 5.3.1 The unintended but inevitable outcome of the LGSCO proposals would be a material weakening of initial complaint investigations with additional complaint burdens, which would be unrecoverable through the remainder of the process. In our professional view, it would also inevitably increase escalation to the LGSCO with a reduction in meaningful outcomes at an earlier stage for complaints – something which would stand in opposition to what we believe the fundamental purpose of the process should be. This in itself would then lead to maladministration for having not properly investigated concerns up front.
- 5.3.2 The proposals do not reflect our experience of complainants, most want their issues resolved as quickly as possible, and miss the opportunity to meaningfully investigate and seek to resolve early where things have gone wrong. The proposals will remove the space for check and challenge within the organisation, which may impede the opportunity for concessions and recognition that might resolve the complaint earlier in a global sense.

5.4 Ombudsman sanctions

- 5.4.1 The Ombudsman states;

“We may make a finding of maladministration where local councils policies and procedures depart from the Code without sufficient explanation. We may also make a finding of maladministration where a local council, without good reason, does not meet the standards in the Code when responding to an individual complaint.”

- 5.4.2 Whilst not mandatory it appears that we may find ourselves out of favour on complaints that do escalate to the Ombudsman if we fail to meet our own timescales. Current Council performance means that this would be the case in a significant number of cases.
- 5.4.3 However, the Council does have aspirations to meet the code and will endeavour to do so as soon as possible. We are currently not meeting our own standards and we would need to do so before attempting to adopt a code

which halves the current timescales. The reputational and relationship damage to our residents and customers would be significant.

6. Legislative powers & Member involvement

6.1 The code is not mandatory, the LGSCO do not have the legislative powers given to them under the Local Government Act of 1974 to compel councils to adopt the code, however the Ombudsman has advised that Councils need to consider the code and adoption of the guidance on complaints handling within. They have said that they recognise that some Councils will find it more of a challenge than others to adopt but will be looking for Councils to adopt it by 2026/27 which is when they will consider the code as part of their casework.

6.2 The Ombudsman has stated that

“Councils should follow the Code unless there are good reasons not to. If a council decides not to follow the Code through its policies and procedures this could be set out in the self-assessment or another report to the relevant Member of scrutiny committee explaining the council’s reasons for this.”

6.3 Councils across England are currently considering their position in relation to the Ombudsman’s code. Some have agreed to take part in a pilot to help understand the impact and practical advice needed to implement the code fully. Whilst it is clear some Councils are able to adopt the code early, for example those who currently handle housing complaints under the code which is already mandated by the Housing Ombudsman; there are others that are still considering how they will approach the code. These are typically facing similar challenges to ourselves.

6.4 Whilst the policy is an operational matter, it is important that Members have an overview of the proposals and an opportunity to comment on the Council’s intention and the current direction of travel, noting the intention to adopt the code when possible.

7. Updating the Customer Feedback Policy

7.1 The customer feedback policy has not been formally updated since 2017, due in part to the pandemic and more latterly to the Ombudsman’s intention to release a code which was expected to have an impact on any policy decisions we needed to make.

7.2 We have reviewed our current policy with a view to remaining with the Council’s current commitment of acknowledging receipt of all complaints within 3 days and responding within 20 working days for Stage One complaints and 20 working days for Stage Two complaints.

7.3 As this Policy deviates from the Ombudsman’s recommended timelines, Members are asked to review and comment on the Council’s policy and timelines.

7.4 Should Members be minded to consider the adoption of the timescales outlined in the Ombudsman's code of complaint handling, it will be necessary to bolster front line services to enable the handling of complaints within a tighter timeframe. There is likely to be a shift in priorities with the Council's Complaints' Service Level Agreements (SLA) being quicker than some of our Service SLAs, resulting in the potential for more complaints rather than fewer complaints as staff juggle business as usual priorities alongside quicker timescales for complaints.

8. Other updates to the Policy

8.1 There have been a number of other updates to the Policy, including:

1. amalgamating all the complaints policies into one
2. adding clear reasons for not accepting complaints, for example legal cases, alternative appeal routes and HR issues.
3. updating contact details and links.

9. Recommendations

9.1 The Policy and Resources Committee are asked to note and comment on the updated Policy, including direction of travel with regards to the Ombudsman's code.

9.2 The Policy and Resources Committee are asked to comment on and acknowledge the self-assessment form at Appendix A.

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Background papers:

[Link to last P&R performance report in May.](#)

[Link to the Ombudsman's complaints handling code.](#)