

BUDGET AND PERFORMANCE PANEL

Complaints Process – Elected Member Involvement 24 February 2015

Report of Chief Executive

PURPOSE OF REPORT

To consider whether to recommend that Cabinet develops a procedure to be included in the Council's Complaints Policy to enable elected members to get involved in some difficult to resolve complaints after Stage 2 of the Council's Policy and prior to the complainant being referred to the Local Government Ombudsman.

This report is public

RECOMMENDATIONS

(1) The Panel's views are sought.

1.0 Introduction

- 1.1 At its meeting on the 10 October 2012, Overview and Scrutiny Committee received a report to enable consideration of the extent to which elected members should be involved in the corporate complaints process. A copy of the report and resolution are attached at **Appendix A**.
- 1.2 At its meeting on the 6 November 2012, Cabinet approved Overview and Scrutiny's recommendation in respect of elected member involvement in the complaints process.
- 1.3 In accordance with Resolution (2) from Overview and Scrutiny Committee of the 10 October 2012, Budget and Performance Panel received a Complaints Monitoring report at its meeting on the 14 November 2013 and agreed that future monitoring reports should form part of the Panel's overall corporate performance monitoring process.
- 1.4 The latest complaints monitoring information is contained within the Corporate Performance Monitoring Report elsewhere on this Agenda.
- 1.5 A copy of the Council's current Complaints Policy is attached at **Appendix B**. The Policy was last reviewed and updated in June 2014 following further guidance from the Local Government Ombudsman (LGO). The current Policy is, therefore, up to date and mirrors best practice.
- 1.6 The LGO website, which provides advice for complainants, refers to a two-stage process only. Officers have consistently taken the view that this

process is the right one: <http://www.lgo.org.uk/making-a-complaint/submitting-a-complaint/top-tips/>. Furthermore, feedback from the LGO on various cases would indicate that the Council's Complaints Policy is fit for purpose.

- 1.7 However, I have been asked to provide Councillors with the opportunity to review the Policy and, in particular, consider a third stage of appeal before progress to the LGO.

2.0 Option for Third Stage of Appeal

- 2.1 The third stage of appeal would be for Councillors to consider the complaints that have been completed by officers and where the next right of appeal is to the LGO.

- 2.2 In the period 01 April to 31 December 2014, there were 4 complaints dealt with at Stage 2 of the Complaints Policy and all of these would have been eligible for a Stage 3 Councillor Review in a revised process. (Note: during this period, according to records, 14 issues were brought to the attention of the LGO from within the Lancaster District. This would be a combination of issues referred to the Council prior to the 01 April 2014 and then being referred on to the LGO and, in some cases, a matter is referred directly to the LGO because it doesn't qualify as a complaint within the remit of the Council's policy.)

- 2.3 Irrespective of the numbers, to involve elected members in the complaints process would require the creation of a formal Committee or Sub-Committee with authority to make decisions on behalf of the Council. The implications of this approach include;

- A report would be needed to establish remit, membership and other governance arrangements. However, on the basis that the making of any decision would be an executive function, it is likely that the Committee would need to be a committee of Cabinet.
- Such a Committee would be bound by the formal rules for Council meetings and if the Committee were a committee of Council rather than a Cabinet committee, the Chair would be entitled to an allowance.
- It is impossible to estimate how many complaints will be taken to a third stage, but it is likely to be a higher number than is currently the case. Many cases are complex and would take considerable time to consider.

- 2.4 Cases to be considered will require complex reports and presentations by Council officers and it is likely that at a hearing there would need to be a number of officers to provide evidence. The time commitment for this is likely to be very significant, both for Committee members and in servicing this Committee. This may contribute to further delay in the resolution of complaints.

- 2.5 It should be noted, however, that by definition the Complaints Policy only covers operational complaints, hence the reason officers deal with them. In most cases where the complainant continues to express dissatisfaction, the root cause is actually the underlying legislation, policy or agreed procedure. There are, of course, appropriate routes to challenge these arrangements that properly do involve elected members. Members should be very clear though the complaints procedure is neither designed nor intended as one of those routes.

3.0 Resource Implications

- 3.1 None arising directly as a result of this report. However, if the Panel are minded to recommend Cabinet consider developing a Stage 3 procedure involving elected members, all the resource implications will be addressed in the report to Cabinet.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

There is an argument that this would involve Councillors in an operational role in relation to the Council's activities, which is potentially contrary to the principles in the Council's Constitution and could lead to potential conflicts. For example, one of the key roles of a Councillor is to act as an advocate for constituents in resolving particular concerns of grievances.

The Council's two stage complaints policy follows closely the guidance set down by the Local Government Ombudsman. The introduction of a third stage would raise questions about what value was being added to the process.

LEGAL IMPLICATIONS

There are no legal implications directly arising from this report and I concur with the Monitoring Officer's view that to implement such a procedure would be in conflict with the Council's Constitution.

FINANCIAL IMPLICATIONS

None arising directly as a result of this report. However, should the Panel recommend that a Stage 3 procedure be developed, there would be financial implications attached and these would need to be addressed in the report to Cabinet.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None arising directly as a result of this report. However, should the Panel recommend that a Stage 3 procedure be developed, human resource implications will be addressed in the report to Cabinet.

Information Services:

None arising directly as a result of this report.

Property:

None arising directly as a result of this report.

Open Spaces:

None arising directly as a result of this report.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer would caution against the proposal for elected members to be involved in the complaints process (other than as advocate for a ward resident). The Council's Constitution makes it clear that officers are responsible for operational matters, and the current complaints procedure is consistent with that approach. Further, the Council's record with regard to Ombudsman complaints does not suggest that there are any underlying problems with the current procedure.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer would also caution against the proposal for elected members to be involved in the complaints process (other than as advocate for a ward resident). This is because of the additional finance and other resource implications that would inevitably arise. Given that the Council's current policy already follows best practice and is considered fit for purpose, adding in another stage at additional cost is considered to go against the principles of securing value for money.

BACKGROUND PAPERS

Report and Minutes from Overview and Scrutiny Committee – 10.10.12 and 14.11.13
Lancaster City Council's Complaints Policy

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