

DOVER DISTRICT COUNCIL

REPORT OF THE CORPORATE COMPLAINTS AND RESILIENCE OFFICER

STANDARDS COMMITTEE – 6 JULY 2016

COMPLAINTS REPORT FOR THE PERIOD 1 JANUARY TO 30 JUNE 2016

Recommendation

<i>That the report be noted and the actions taken be endorsed.</i>
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Contact Officer: Sue Carr, extension 2322.

1. UPDATE OF COMPLAINTS RECEIVED BY THE DISTRICT COUNCIL

Reported below is an update of formal complaints investigated by the Corporate Services Team at stage two of the Council's complaints process for the period from 1 January 2016 to 30 June 2016. Eight complaints have been investigated and two of which were upheld. There may be issues raised through the complaints process where the Corporate Support Section provides a written explanation of Council policy and procedures but which do not require an investigation. These are not included within this report but are included within the figures in the tables at Appendices A and C.

1.1 Complaint No. CTX177 – River (Closed)

This complaint related to the council tax increase specifically in relation to adult social care. The complainant was also unhappy that EK Services had automatically switched their account to e-billing and claimed that the Council should not be sharing their personal data with another company. The Corporate Complaints & Resilience Officer (CCRO) advised the complainant that the Council Tax Regulations had been amended in February 2016 to allow for local authorities responsible for adult social care to raise an additional 2% on their current council tax referendum thresholds. The CCRO apologised for the fact that their account had been altered without their permission but that it had been changed and a copy bill posted to them. The CCRO explained that the Local Government Acts 1972 and 2000 allow local authorities to discharge their functions jointly and that there had been no breach of data protection. The complaint was not upheld. The complainant referred the matter to the LGO as reported below at 2.8

1.2 Complaint No. DEV195 – Walmer (Closed)

A complaint was received in respect of planning enforcement. The complainant stated that ornamentation had been added to a development which did not agree with the plans which had been granted consent. The Planning Enforcement officer was of the opinion that the "finial type" ornamentation was visually acceptable and did not have a detrimental impact on the neighbouring residential amenities. The CCRO considered the matter but could find no evidence of maladministration. The Officer had given consideration to enforcement action and the CCRO could not question the merits of that decision. The complaint was not upheld.

1.3 **Complaint No. DEV196 – Maxton, Elms Vale & Priory (Closed)**

The complainant was unhappy with a decision taken by Planning Committee for residential development. They were of the opinion that the Council does not do enough to advertise planning applications and also questioned why Members went against an officer's decision. The CCRO explained that the Council had elected to advertise planning applications by way of site notice and this is in accordance with the Town & Country (Development Management Procedure) (England) Order 2010. It has also been noted that a Department of Environment Circular from 1992 stated that site notices allow for information about a proposed development to be passed by word of mouth to a larger audience than might otherwise be possible. With regard to the decision taken by Members, the CCRO advised that Members of Planning Committee receive specific training and are mindful of planning policies. It was also noted that this is a democratic process and there will be occasions when Members go against an officer's recommendation. There was no evidence of maladministration and the complaint was not upheld.

1.4 **Complaint No. DEV 197 – Sandwich (Closed)**

This complaint related to differing pre-application advice provided in 2010 and 2015 and the way in which two planning applications were dealt with. The CCRO explained that since advice was provided in 2010 the National Planning Policy Guidance & Framework had been published which could explain the officers' different opinions however the CCRO cannot question the merits of the decisions. With regard to the two refusals the CCRO could find no evidence of maladministration as the officers had followed procedure and decisions are reviewed and signed off by different team leaders. The complaint was not upheld.

1.5 **Complaint No. DEV198 – Eastry (Closed)**

This complaint related to an application for prior approval for change of use. Prior approval seeks the Planning Authority's determination that a proposed development fits within the terms of permitted development but there are only certain criteria that the Planning Authority can comment on. If this type of application is not determined in a prescribed way within 56 days the applicant is at liberty to proceed. In this case, at the request of the planning officer, the applicant had submitted a draft Traffic Management Plan which was being considered by the Highway Authority's and the Planning Authority's legal teams. The applicant did not agree to an extension of time to resolve an acceptable form of wording for the legal agreement. Before the expiry of the 56 day period the Officer wrote to the applicant to advise that prior approval was required but the letter did not specifically state "prior approval is refused". Due to this technicality the change of use can be implemented under permitted development rights. The CCRO apologised to the complainant for this error but also explained that the legal agreement would only have been able to manage how the delivery vehicles to the building, accessed the site rather than all traffic using the highway. It is understood that the Parish Council is acquiring a speed indicating device which it is hoped will reduce the speed of the traffic. This complaint was upheld.

1.6 **Complaint No. PSV042 – Castle (Closed)**

This complaint related to the fact that an incorrect form had been sent which resulted in a delay of a service charge refund. Following enquiries made by the CCRO this was found to be the case and it was agreed that the form would be held on the

intranet so that officers always had access to the current version. The CCRO apologised to the complainant for this error. The complaint was upheld.

1.7 **Complaint No. WST165 – Capel-le-Ferne (Closed)**

The complainant alleged that the Council's contractor was failing to collect their waste and demanded a refund of council tax. The matter was investigated and it was found that there had been two reports of missed collections in 2015 and on both occasions the contractors had returned to collect the waste. There had been no further reports and the CCRO advised that unless the Council were aware of the problem the officers would be unable to respond. It also transpired that the complainant was failing to put the waste bins at the agreed collection point. The complainant agreed to put the bins in the pre-arranged location and the officers monitored the contractors until they were satisfied that the waste was being collected. The complaint was not upheld.

1.8 **Complaint No. HND066 – Mill Hill (Closed)**

The complainant was unhappy that an email from the Housing Options Manager referred to a "number of offers" made to them to enable them to transfer, but that this statement was incorrect. The CCRO reviewed the documentation and noted that four properties had been suggested, two of which were not in an area of their choice. The CCRO apologised for the wording used but ultimately two properties met their criteria and one offer was made in accordance with the Allocations Policy. The complaint was not upheld.

2. **COMPLAINT DECISIONS ISSUED BY THE LOCAL GOVERNMENT OMBUDSMAN BETWEEN 1 JANUARY 2016 AND 30 JUNE 2016**

2.1 **DEV191** – This complaint related to decisions taken by the Council in relation to noise nuisance and planning enforcement. The Local Government Ombudsman (LGO) reviewed the actions taken by the Environmental Protection and Planning Enforcement Officers. With regard to the planning issues, the Ombudsman found no fault in the way the Council dealt with the alleged breach of planning control. The Council had considered all the evidence and decided not to take enforcement action. That is a decision the Council is entitled to reach and the Ombudsman cannot question whether the decision is right or wrong. With regard to the complaints of noise nuisance the Ombudsman found that site visits had taken place, recordings made and evidence considered. The Council had concluded that noise exists but not at a level at which action could be taken. The Ombudsman could find no fault with the way in which the matter had been dealt with. The decision was classed as "Not upheld: no maladministration".

2.2 **HND064** – This complaint relates to actions taken by the Housing Needs Section. An allegation that the complainant had been removed from the housing register, the way in which a housing application from a couple known to the complainant was dealt with and also the advice provided to people whose landlords threaten them with eviction. The Ombudsman found that the complainant had been removed from the housing register in 2011 as they had failed to respond to letters inviting them to re-register. The complainant stated that they had not received those letters but had been advised that they no longer had to re-register annually. The Council had already invited the complainant to re-apply to join the housing register and if the letter could be produced advising them that they did not need to re-apply they would be reinstated and their registration backdated to 2011. With regard to the allocation of a property to another couple, the complainant had not bid on the property so had not

suffered any injustice therefore the Ombudsman did not investigate that part of the complaint. With regard to advice given to people threatened with eviction, the complainant was not personally affected and therefore the Ombudsman would not investigate that part of the complaint. The Ombudsman closed the complaint and the decision was classed as “Closed after initial enquiries – no further action”.

- 2.3 **ENV042** – This complaint relates to allegations that the Council failed to properly investigate noise nuisance and also properly investigate and take appropriate enforcement action in relation to an intensification of use at a neighbouring commercial site. The Ombudsman found that the Council had investigated the noise complaints in accordance with its policy. The officers had repeatedly tried to witness the noise nuisance complained of but were satisfied that the noise they witnessed did not amount to a statutory nuisance. The Ombudsman could find no fault in the way the decision was made. With regard to the complaint of intensification of use at the site, officers visited, reviewed planning permissions and compared old photographs of the site with its current condition. There was no evidence of fault in the decision process. The decision is classed as “Not upheld: no maladministration”.
- 2.4 **PKG056** – The Ombudsman received a complaint that the Council should not have issued a penalty charge notice as they claimed that their vehicle was not obstructing a bus lane. The Ombudsman stated that they would not investigate the complaint as there is a right of appeal. The decision was classed as “Closed after initial enquiries – out of jurisdiction”.
- 2.5 **PSH022** – The complainant claimed that they had lost business due to information passed from the Council to another Government agency. The Ombudsman resolved not to investigate the matter as the decision to remove residents from the complainant’s property was not taken by the Council. The decision was classed as “Closed after initial enquiries – no further action”.
- 2.6 **PKG055** – A complaint was referred to the Ombudsman that the Council would not introduce a resident parking scheme which would allow only the residents of a cul-de-sac to park there. The Council had clearly told residents that it would not allow a separate scheme for a street which would give residents more favourable parking arrangements than those who lived in neighbouring streets. Consultation took place and four options were put forward but the Council had said that if the residents could not agree on one of those schemes then no scheme would be introduced at all for the cul-de-sac. When residents could not agree the Council followed through with this course of action. The Ombudsman found no fault in the Council’s actions. The decision was classed as “Closed after initial enquiries – no further action”.
- 2.7 **PKG059** – This complaint related to debt recovery action in relation to the issue of a penalty charge notice. The complainant advised the Ombudsman that they wrote to the Council disputing the charge and received no further correspondence. They assumed that the matter had been resolved until enforcement agents acting for the Council visited their home to collect the debt. The Ombudsman advised that the registered keeper may make a late witness statement after the Court has issued the warrant and that, in this instance, this was the correct course of action. The decision was classed as “Closed after initial enquiries – out of jurisdiction”.
- 2.8 **CTX177** – The complainant claimed that the Council should not share their personal data with a company set up between several Councils for administering council tax. The Council had advised that the law allowed this and the Ombudsman stated that if the complainant disagreed they could complain to the Information Commissioner. The complainant also said that he had been sent a council tax bill by email without

their authorisation. The Council had apologised and sent a printed copy. The Ombudsman was satisfied that this remedied the complaint but did not consider that the alleged error would warrant investigation. The decision was classed as “Closed after initial enquiries – out of jurisdiction”.

3. **COMPLAINT STATISTICS**

Appendix A shows the number of complaints received per Ward for the current financial year compared to 2015/16. Appendix B details the compliments received by Section for the period 1 January 2016 to 30 June 2016. Appendix C details the complaints received by the District Council and EK Services for the period 1 January to 30 June 2016. Appendix D lists the Lessons Learnt from complaints from 1 January to 30 June 2016.

Background Papers

File C23/5 – Complaints.

Resource Implications

None.

Impact on Corporate Objectives

An effective complaints system supports the delivery of the Council's corporate objectives set out within the Corporate Plan 2008-2020.

Comment from the Solicitor to the Council

The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

Attachments

Appendix A – Ward Statistics
Appendix B – Breakdown of compliments by Section
Appendix C – Breakdown of complaints by Section
Appendix D – Actions Taken/Procedural Changes as a result of complaints received

SUE CARR
Corporate Complaints & Resilience Officer

The officer to whom reference should be made concerning inspection of the background papers is the Corporate Complaints & Resilience Officer, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 872322.

Number of Complaints Received Per Ward and processed through the Complaints System

Ward	No of Complaints	
	1.4.15 to 31.3.16	1.4.16 to 30.6.16
	DDC	DDC
Aylesham	4	
Buckland	5	
Capel-le-Ferne	3	
Castle	10	2
Eastry	3	1
Eythorne & Shepherdswell	2	1
Little Stour & Ashstone	9	
Lydden & Temple Ewell	1	
Maxton, Elms Vale & Priory	5	1
Middle Deal & Sholden	6	1
Mill Hill	6	3
North Deal	8	1
Outside District or N/A	7	
Ringwould	2	
River	4	
Sandwich	3	2
St Margaret's-at-Cliffe	3	1
St Radigunds	4	1
Tower Hamlets	4	
Town & Pier	-	
Unknown	9	5
Walmer	3	
Whitfield	5	
Total	106	19

**Details of Compliments Received Per Section
From 1 January 2016 – 30 June 2016**

Section	Compliment
Building Control	Appreciation for a particularly high level of service – speedy response, attention to detail and sympathetic handling of the case
Communication & Engagement	Thank you for “Parade in the Park” – the children thoroughly enjoyed it
Communication & Engagement	Thank you for continued support and diligently promoting events in Sandwich
Property Services	Thank you for maintenance and repairs carried out in Charlton Cemetery
Property Services	Thank you for new street name plate which the contractor has positioned beautifully
Property Services	Fantastic new facilities at Walmer Paddling Pool
Waste Services	Thank you for removal of the rubbish from the verges on the A2
Waste Services	Thanks to Veolia for emptying household waste bins despite the difficulty as a consequence of parked cars
Waste Services	Excellent job of clearing leaves and debris from a path
Waste Services	Thank you to the contractors who cleared an additional area at the request of a resident
Waste Services	Thank you to the officer who gave up their Saturday to give a talk on waste and recycling
Waste Services	Excellent, polite response and officer was very quick to visit
Waste Services	Thank you for removal of fly-tipping “You may just be doing your job but thank you for doing it and the results don’t go unnoticed”

Complaints by Section from 1 January 2016 to 30 June 2016

Complaint Type	Reason for Complaint	Number
Building Control - DDC	No Response	1
Council Tax - EKS	Administration	5
Council Tax - EKS	Recovery	7
Council Tax - EKS	Billing	1
Customer Services - EKS	Telephone Service	2
Customer Services - EKS	Staff attitude	1
Environmental Protection - DDC	Action taken by Officer	1
Planning enforcement - DDC	Merits of decision	1
Development Control - DDC	Administration	3
Development Control - DDC	Merits of decision	2
Governance - DDC	Merits of decision	2
Housing benefits - EKS	Overpayment	1
Housing benefits - EKS	Recovery	1
Housing Needs - DDC	Response from officer	1
Horticulture - DDC	Merits of decision	1
NNDR - EKS	Recovery	1
Parking Services - DDC	Action taken by Officer	2
Parking Services - DDC	Merits of decision	3
Parking Services - DDC	Administration	3
Waste Services - DDC	Missed collection	2
Waste Services - DDC	Recycling contamination	1

**Actions Taken and/or Procedural Changes as a result of
Complaints received between
1 January 2016 and 30 June 2016**

Section	Complaint	Actions Taken/Procedural Changes
Events – DDC	Procedures relating to a traffic regulation order for a cycle track	Officers now aware of the status of the cycle track and the correct legislation will be used for any future closures.
Council Tax – EKS	Lack of response from Council Tax regarding a direct debit	Automated acknowledgement emails to be introduced.
Property Services / Accountancy – DDC	Incorrect refund form sent to resident	Form to be held on the intranet so that staff always have access to the current version.