

Public Document Pack

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23 October 2020

Standards Committee

A virtual meeting of the Committee will be held at **2.15 pm** on **Monday, 2 November 2020**.

Note: In accordance with regulations in response to the current public health emergency, this meeting will be held virtually with members in remote attendance. Public access is via webcasting.

The meeting will be available to watch live via the Internet at this address:

<http://www.westsussex.public-i.tv/core/portal/home>

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Agenda

1. **Declarations of Interest**

Members and officers must declare any pecuniary or personal interest in any business on the agenda. They should also make declarations at any stage such as an interest becomes apparent during the meeting. Consideration should be given to leaving the meeting if the nature of the interest warrants it. If in doubt please contact Democratic Services before the meeting.

2. **Minutes of the last meeting of the Committee** (Pages 3 - 6)

The Committee is asked to agree the minutes of the meeting held on 26 July 2019 (attached, cream paper).

3. **Urgent Matters**

Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances.

4. **Complaints and Compliments Annual Report 2019** (Pages 7 - 86)

Report by the Director of Communities.

The Committee is asked to note the report.

5. **Standards Committee Annual Report** (Pages 87 - 90)

Report by the Director of Law and Assurance.

The Committee is asked to consider the draft annual report for submission to the County Council on 11 December 2020.

6. **Merger of Planning and Rights of Way Committees: Code of Conduct Revisions** (Pages 91 - 108)

Report by the Director of Law and Assurance.

The Committee is asked to consider the proposals in the report for endorsement to the County Council on 6 November 2020.

7. **Member Officer Relations Protocol Report** (Pages 109 - 124)

Report by Director of Law and Assurance.

The Committee is asked to consider and support the proposed revisions to the Code of Conduct Section 2, Member Officer Protocol, for submission to the County Council on 11 December 2020.

8. **Standards Best Practice Report** (Pages 125 - 130)

A report by the Director of Law and Assurance.

The Committee is invited to note the report.

9. **Whistleblowing Policy** (Pages 131 - 134)

The report by the Director of Law and Assurance advises of referrals via this Policy since the last meeting of the Committee.

The Committee is invited to note the report and to endorse recent actions taken.

10. **Date of Next Meeting**

The next meeting of the Committee will be held at 2.15 pm on 14 June 2021 at County Hall, Chichester.

To all members of the Standards Committee

Standards Committee

26 July 2019 – At a meeting of the Standards Committee held at 10.30 am at County Hall, Chichester.

Present: Mrs Duncton (Chairman)

Mr Patel, Mr Barnard, Mr R J Oakley and Mr Smytherman

Apologies were received from Lt Col Barton, Mrs Jupp and Mrs Sparkes

Absent: Mrs Brunsdon

Also in attendance: Mr Cooper and Mr Donaldson

Part I

1. Declarations of Interest

1.1 In accordance with the code of conduct, Mr Smytherman declared personal interests as follows:

- As a Governor of the Alternative Provision College in minute 4, Report by the Local Government and Social Care Ombudsman Update
- As a member of Worthing Borough Council in relation to item 6, Standards Annual Report

2. Minutes of the last meeting of the Committee

2.1 Resolved – That, subject to the addition of Mr Donaldson's name to the 'In attendance' section, the minutes of the meeting of the Committee held on 4 March 2019 be approved as a correct record and that they be signed by the Chairman.

3. Compliments and Complaints Annual Report

3.1 The Committee considered a report by the Executive Director Place Services and the Director of Communities (copy appended to the signed minutes), which set out the annual report on Compliments and Complaints received by the County Council.

3.2 The report was introduced by Dave Loveman (Customer Relations Manager) and David Tominey (Complaints and Representations Manager), who advised that information from complaints and compliments was considered and that opportunities for learning and for improving services was always sought. An increase in complaints had occurred but the broad range remained that around 75% of complaints were about Adults or Children's Social Care or about highways and transport.

3.3 The Committee made comments including those that follow. It:

- Highlighted that reductions to service levels would be likely to lead to more complaints and emphasised that communications about service levels could help to manage expectations.
- Emphasised the importance of early resolution of complaints and service requests and hoped that the current rate of 82% of complaints receiving a response within agreed timescales could be improved. Mr Tominey agreed that early resolution was beneficial and acknowledged that members were sometimes pivotal in this at a local level. He hoped that the 82% would improve to at least 90%, recognising the complexity of some social care complaints.
- Asked if there were links between increasing complaints level in Children's Services to the recent poor Ofsted Inspection result and whether the Commissioner for Children's Services would see complaints data. Mr Loveman agreed that the increase in complaints levels might be connected to some extent with the problems in Children's Services identified in the Ofsted report and advised that the Director of Children's Services was considering complaints data and would share it with the Commissioner as appropriate.
- Expressed concern about the increase in complaints about staff behaviour and competence. Mr Loveman reported that not all of these complaints were upheld – sometimes complaints about staff behaviour or competence were simply down to the customer being aggrieved because a correct decision had been taken or implemented in accordance with Council policies.

3.4 Resolved – That the report be noted.

4. Report by the Local Government and Social Care Ombudsman Update

4.1 The Director of Law and Assurance reported that, further to minute 10 of the last meeting, the Local Government and Social Care Ombudsman had written to the County Council again, to ask the County Council to comply with its original recommendations in relation to the case previously considered by the Committee.

4.2 The Director advised that as the findings could not be rejected other than through judicial review, he recommended that the County Council should comply with the recommendations of the Ombudsman, that an apology be made, £400 be paid and that procedures should be reviewed. He advised that the Education and Skills Service had now accepted this and he did not consider that accepting the recommendations would set a precedent as each case is individually assessed and it remains the case that the Council does not agree with but accepts the findings.

4.3 The Committee noted the Director's advice as Monitoring Officer. The Committee remained concerned about the implications of the findings of the Ombudsman, but did not consider it appropriate to consider a judicial review into the matter. It noted that the alternative provision eventually provided for the student concerned was now proving effective and that it was providing a good educational outcome.

4.4 Resolved – That the Ombudsman's recommendations on the education complaint case be agreed – that the Council will:

- (1) Apologise to Mr and Mrs X for not fully considering alternative approaches to ensuring an education for their daughter from April to July 2017;
- (2) Pay them £400 to recognise the loss of educational opportunity during this period, to be used for the benefit of Y's education;
- (3) Remind relevant staff that the duty to provide alternative education may arise for reasons other than exclusion and illness.

5. Standards Best Practice

5.1 The Committee received a report by the Director of Law and Assurance (copy appended to the signed minutes), which set out proposals to implement two areas of best practice as defined by the Committee for Standards in Public Life.

5.2 The report was introduced by Charles Gauntlett (Senior Advisor, Democratic Services), who advised that it was proposed to add an explicit wording to the registration of interests form that a member would 'confirm that I agree to abide by West Sussex County Council's Code of Conduct' as well as give notice of their interests. He confirmed that the other proposal was to add a list of other bodies which the Council owns or has set up to the Annual Governance Statement, confirming that they abide by the Nolan principles of openness.

5.3 The Committee welcomed the proposals and agreed that these would address the two gaps identified in the County Council's best practice on standards. It asked that the declaration to be added to the registration of interests form be highlighted in bold type.

5.4 Resolved –

- (1) That the proposed amended wording to the registration of interests form in the appendix to the report be approved for use after future by-elections and elections, in bold type.
- (2) That the Director of Law and Assurance be asked to list separate bodies within future Annual Governance Statements, together with confirmation that they abide by the Nolan principles.

6. Standards Annual Report

6.1 The Committee received a report by the Director of Law and Assurance (copy appended to the signed minutes), which set out a proposed Annual Report for submission to the County Council.

6.2 The report was introduced by Charles Gauntlett (Senior Advisor, Democratic Services) who advised that the report was positive, with little casework during 2018-19.

6.3 The Committee welcomed the report as it highlighted the successful approach to conduct and standards by members of the County Council. It

was hoped that the County Council's good practice could be shared with other local authorities in the area.

6.4 Resolved – That the draft report be approved for submission to the County Council on 18 October 2019.

7. Confidential Reporting Policy

7.1 The Committee considered a report by the Director of Law and Assurance (copy appended to the signed minutes), which provided an update on referrals made through the Confidential Reporting (Whistleblowing) Policy.

7.2 The report was introduced by the Director of Law and Assurance, who invited the Committee to note the four referrals made and the outcomes from them. He advised that recommendations were to change the name of the Policy to the 'Whistleblowing Policy' and to publicise it to staff and through staff groups.

7.3 The Committee supported the proposal to rename the Policy as the 'Whistleblowing Policy' as it was plainer English. The proposals to publicise the Policy were also supported and it was emphasised that efforts should be made to publicise it to all staff. The Committee also asked for future reports to include a table of the number of cases from the previous year, to give some comparison information.

7.4 Resolved –

- (1) That the report be noted.
- (2) That the Confidential Reporting Policy be renamed the Whistleblowing Policy.
- (3) That the policy be promoted to all staff, including school staff, through appropriate methods of communication.
- (4) That staff groups be invited to provide feedback on staff perceptions of the policy and its effectiveness as a route for raising concerns and in meeting the primary obligations of confidentiality and no adverse consequences.

8. Date of Next Meeting

8.1 The Committee noted that its next scheduled meeting would be held at 2.15 p.m. on Monday 4 November 2019 at County Hall, Chichester.

The meeting ended at 11.42 am

Chairman

Key decision: Not applicable
Unrestricted

Standards Committee

2 November 2020

Complaints and Compliments Annual Report

Report by Director of Communities

Electoral division: Not applicable

Summary

The attached reports fulfil the Council's obligation to provide annual reports on complaints and compliments. The attached appendices represent the annual reports for calendar year 2019 in relation to Children's social care; Adults' social care; and the Council's corporate services.

- (1) That the reports be noted.

Proposal

1 Background and context

- 1.1 The Committee considers annual information on complaints and compliments received by the County Council.

2 Proposal details

- 2.1 The detailed complaints reports for Adults, Children and Corporate Services are included as appendices 1, 2 and 3. These contain the overview and detail of the 2019 calendar year.

3 Other options considered (and reasons for not proposing)

- 3.1 Not applicable.

4 Consultation, engagement and advice

- 4.1 Not applicable

5 Finance

- 5.1 There are no revenue budget consequences.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
None	None

7 Policy alignment and compliance

Director of Communities: Emily King

Contact Officer: David Tominey, Complaints Manager

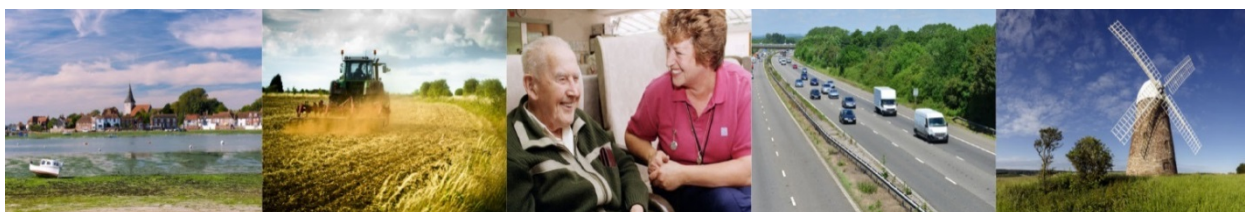
Appendices –

- 1) Adults' Annual Compliments & Complaints Report
- 2) Children's Annual Compliments & Complaints Report
- 3) Corporate Annual Compliments & Complaints Report

Background papers – None.



Adults' Social Care Annual Report: Compliments and Complaints 2019



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Executive Summary

This is the 2019 annual report for Adults' Social Care compliments and complaints. The report covers the period 1st January 2019 to 31st December 2019.

Local authorities are legally required to establish complaints procedures to deal with complaints about their social care functions. The need for a complaints procedure for Adults' Social Care is laid down in statute. The Regulations can be found in the *Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*. These Regulations cover both local government and the NHS and came into force in February 2009. These regulations are referred to as the Adults' Social Care *statutory* procedures, both in practice and as a reference throughout this report.

This year, the County Council has produced a dedicated complaints report for both Children's Social Care *and* Adults' Social Care. Historically, the County Council has reported on Adults' Social Care complaints as part of a broader whole Council annual report. The decision to produce separate reports for Children's and Adults' Social Care was made to enable the County Council to produce a more focussed review of complaints received in respect of our service delivery to our most vulnerable customers.

The purpose of this report is to review the operation of the complaints process over a 12 month period, including statistical data, and to provide the local authority with the means by which it keeps itself informed about complaint themes and how effective its current arrangements are for handling customer complaints.

This report also provides information for decisions issued by the Local Government and Social Care Ombudsman (LGSCO) in 2019, as well as compliments recorded by the Council.

The Council's definition of a complaint is:

"A complaint is an expression of dissatisfaction, however made, about the standards of service, actions or lack of action by the County Council or its staff, affecting an individual customer or group of customers"

The Council does have two procedures available to it for dealing with complaints about Adults' Social Care, the Adults' Social Care statutory procedure and the Corporate Complaints procedure; the vast majority of Adults' Social Care complaints are managed through the statutory procedure. Full details of the procedures can be found on the Council's website, but put simply; the Council's aim is to resolve complaints for our customers as quickly and simply as possible. For this reason the initial stage is dealt with by the Manager responsible for the service, with an emphasis on trying to reach a resolution. If that resolution is not reached, the customer has the right to escalate matters to the next stage, where the complaint is reviewed by someone who has not been directly involved previously.

The Customer Relations Team, which is part of the Customer Experience Service, is the central team supporting customers and staff to ensure that making a complaint is as easy as possible for all concerned. The team consists of:

David Tominey, Complaints Manager, and four Customer Relations Officers.

The team can be contacted by emailing feedback@westsussex.gov.uk or by calling 033 022 28222

1 The overall picture

Complaints recorded against Adults' Social Care from 1st January 2019 to 31st December 2019.

The table below shows the reasons recorded for complaints during 2019 in comparison with 2018 and 2017.

Complaint Nature	2017	2018	2019
Charging/Financial Assessment	48	49	66
Charging/Financial Assessment	48	49	66
Conduct of Staff	10	14	19
Behaviour	7	9	13
Competence	3	5	5
Failure Demand	0	0	1
Damage/nuisance/loss	0	0	3
Damage/nuisance/loss	0	0	3
Data Protection/FoI	3	1	0
Breach of Confidentiality	3	1	0
Operational processes	12	10	57
Assessment	9	7	22
Consultation Process	0	0	3
Eligibility	0	0	6
Safeguarding investigation	1	0	5
Service Request Refused	0	0	2
Standard of report	0	0	1
Other	2	3	18
Quality of Service	98	90	45
Communication with service - Failure demand	13	5	6
Communication with service - Other	3	0	17
Delays	13	8	15
Delivery	69	75	0
Discrimination	0	1	1
External service Quality Alert	0	1	6
Grand Total	171	164	190

Explanatory notes:

1. *Figures in bold are the headline figures for a complaint category. Where a breakdown is available, the figures are shown immediately below.*
2. *The categories of 'avoidable contact' and 'failure demand' taken together describe complaints arising from situations which were avoidable if the*

Council was easier to contact, or where contact had been promised but was that promise was not kept. These two categories have now been combined to avoid confusion.

The table below summarises the complaints and compliments recorded by all directorates or service units in 2019, highlighting how Adults' Social Care compares against annual statistics for the rest of the Council. The numbers for the LGSCO reflect the number of *decisions received* in the reporting period.

Complaints by Directorate 2019	Stage One	Stage One Upheld	% Upheld	Stage One % within 10 days or notified extension	Stage Two	LGSCO decisions received	Compliments
Adults and Health							
Adult Services	190	44	23%	82%	34	35	244
Social Care Joint Commissioning	3	1	33%	67%	0	0	2
Children Young People and Learning							
Education and Skills	48	7	15%	83%	8	6	114
Children Services	249	59	24%	74%	44	16	45
Place Services							
Communities	19	11	58%	84%	1	2	4744
Environment and Public Protection	107	26	24%	64%	4	2	195
Highways, Transport and Planning	201	33	16%	85%	23	20	127
Resource Services							
Law and Assurance	5	3	60%	80%	1	2	1
Property and Assets	2	0	0%	100%	1	0	0
Finance, Procurement and Business Support	22	5	23%	86%	4	1	23
Fire Service							
Fire Service	4	2	50%	75%	0	0	28
Chief Exec's Office							
Chief Exec's Office	1	0	0%	100%	0	0	2
HR and Organisational Change							
HR and Organisational Change	3	0	0%	100%	0	2	1
Grand Total Complaints	854	191	22%	78%	120	86	5526

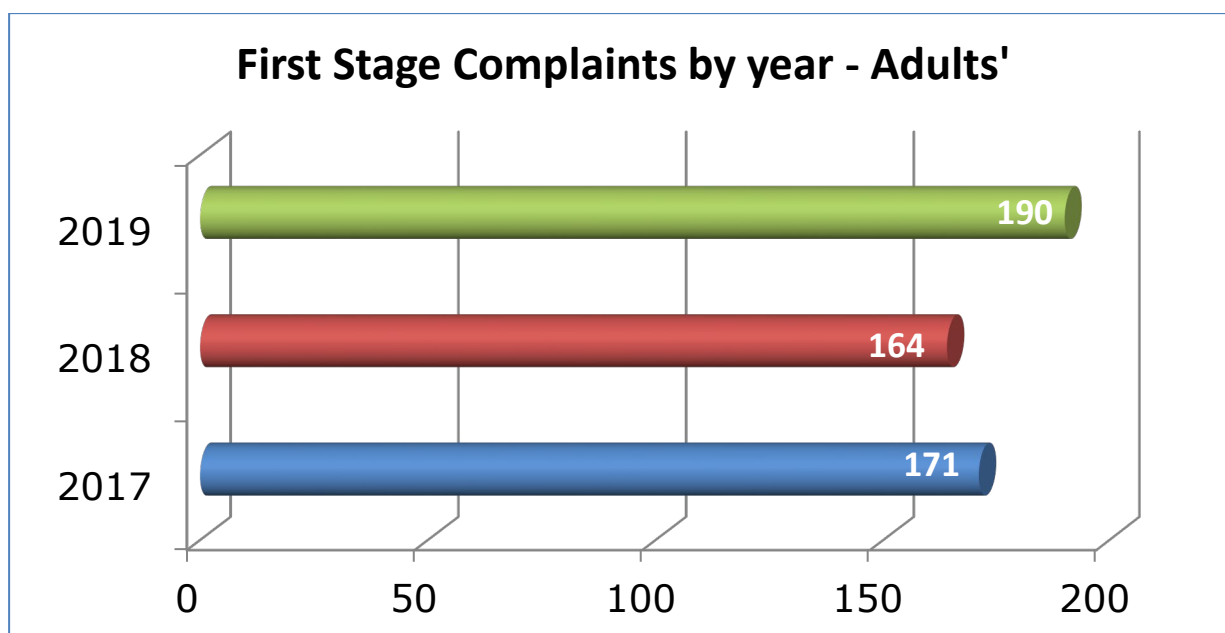
2 Analysis of overall figures

2.1 Stage One Complaints

In 2019 it was decided that Lifelong Services would be moved from the Adults' Social Care directorate to Children's Social Care. For reporting purposes, all complaints against Lifelong Services are no longer categorised as Adults' Social Care complaints.

The *published* number of Adults' Social Care complaints in 2018 was in fact 193. For reporting purposes, and to ensure meaningful year on year comparisons are possible, the 2018 figures have been restated to exclude complaints about Lifelong Services. The restated figure for 2018 is 164.

The number of complaints recorded at the first stage increased from 164 in 2018 to 190 in 2019. This represents an increase of 16% in formal complaints received compared to the restated figure recorded in 2018.



It is difficult to say with any degree of certainty what the reasons are for the volume of complaints traffic, but it is possible to comment on potential contributing factors.

The Council advertises the complaints process clearly and the Customer Experience Service has been instrumental in assessing the accessibility of the complaints service to all of our customers in 2019. The improved accessibility for our customers is intended to provide our customers with a platform from which to voice their dissatisfaction with services provided.

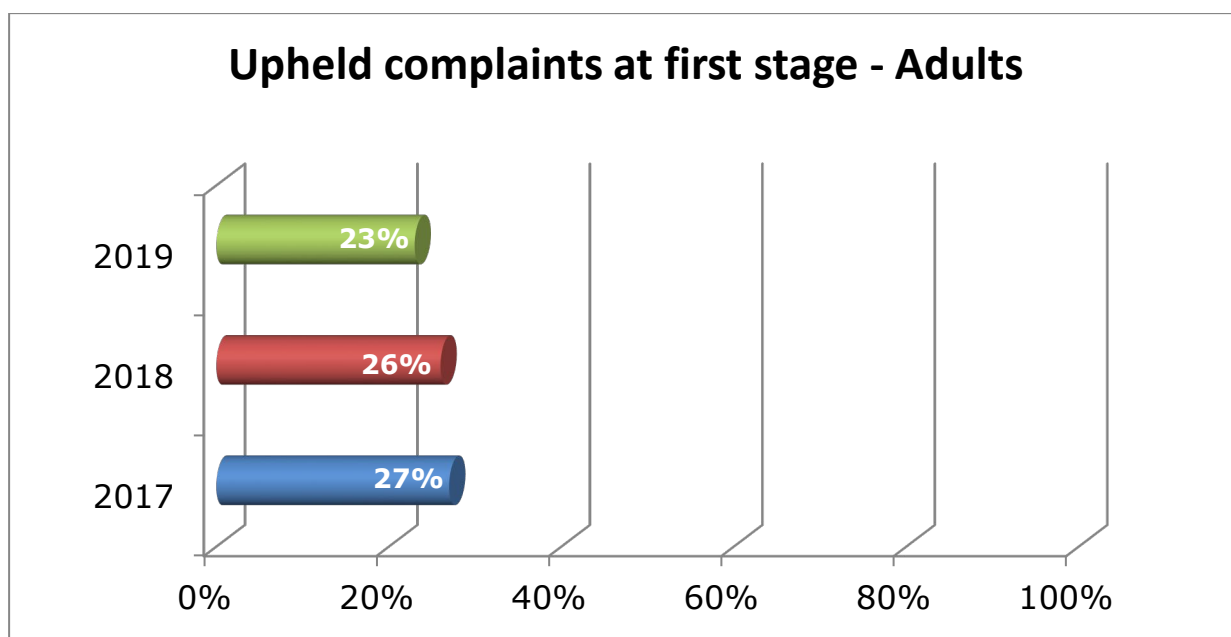
The number of formal complaints received by the Council is a fraction of one percent in proportion to the total transactions with service users and the public. If taken as a percentage of calls to the Customer Service Centre it would be 0.2%, however there are many more customer contacts through other channels.

This comment in no way infers that the Council simply accepts the level of complaints we have received. We want to avoid any customer needing to complain, but also regard every complaint as an opportunity to learn and to implement changes that will avoid future complaints being made, improving our customers' experience and in turn our customers' satisfaction levels with the Council.

There was an increase in complaints received by Adults' Social Care in 2019 but the number of complaints upheld at the first stage decreased from 26% in 2018 to 23% in 2019. This includes complaints that were 'partially upheld'.

The percentage of upheld complaints has decreased for the third year in a row; the percentage of upheld complaints recorded in 2018 was 26%; in 2017 upheld complaints made up 27% of the total recorded.

The percentage of complaints upheld in Adults' Social Care (23%) is slightly higher than the whole Council average of 22%.



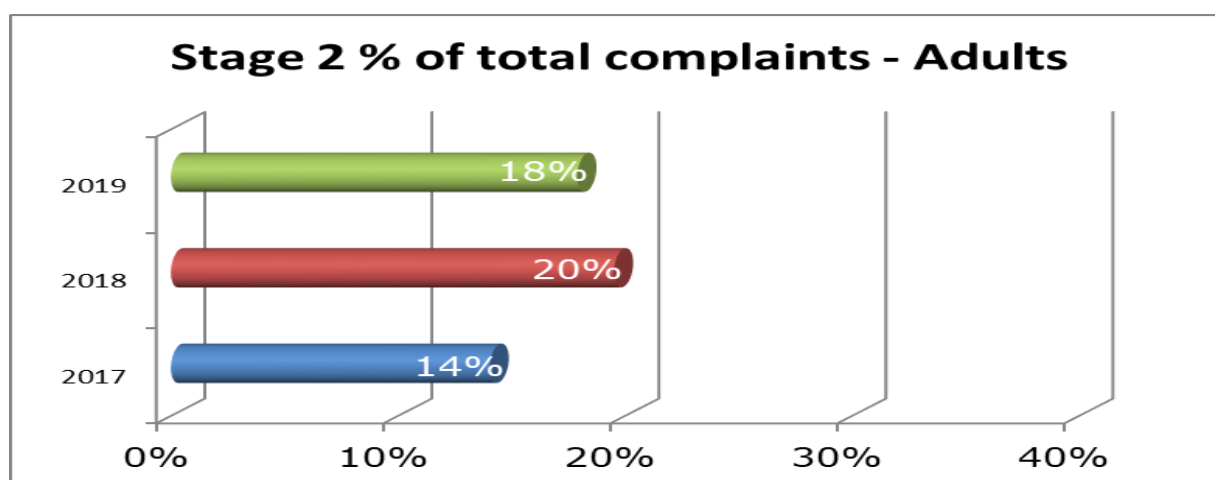
2.2 Stage Two Complaints

If a complainant is not satisfied with the response at the initial stage, they have the right to escalate their complaint for consideration at a more senior level.

The Council's interpretation of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 means that there is scope for complainants to escalate complaints should they remain dissatisfied with the Council's initial investigation. For the purpose of this report, escalated complaints are referred to as 'stage two complaints'.

The number of Adults' Social Care complaints considered at stage two of the Council's complaints procedure rose from 19 in 2018 to 34 in 2019; a 79% increase.

The number of complaints considered at stage two represents 18% of the total number of complaints received in Adults' Social Care at stage one in 2019, compared with 20% of the total in 2018.



The Customer Relations Team has continued to ensure that responding managers are using templates which explicitly advise complainants of their right to escalate.

It is important that complainants are provided with clear instructions on how to pursue their complaints through the appropriate channels. This transparent approach is applied across the whole Council and is indicative of the integrity employed when managing the complaints process.

It is likely that including escalation advice with every stage one response contributes to the number of complaints that are escalated, but the Council is committed to ensuring that the complaints process is transparent and that customers are empowered to seek review of stage one decisions in line with their statutory rights.

The Customer Relations Team reviewed the quality of responses at the early stages of the complaints procedures and a decision was made during 2019 that all responses to stage one complaints would be subject to quality assurance by the Customer Relations Team prior to the response being issued.

Of the 34 stage two complaints investigated, 5 (14.7%) have been found to be upheld in full or in part. Details of the operational learning and insight gained from those complaints investigations are listed below. Note that only five cases are referenced below; the sixth case is subject to ongoing review and it is not felt appropriate to refer to that in this report.

Complaint 1 – Upheld

A complaint was made to the Council about poor communication with a family, and a delay in assessing the complainants' parents when the Council was aware of the seriousness of the situation. The complainant also questioned the content and robustness of the care needs assessments when they were completed.

A full review was undertaken and the complaint was upheld. An apology was issued along with proposed ways in which the Council could better serve the specific needs of each parent. New assessments were undertaken and a named point of contact agreed to ensure any miscommunication could be eradicated.

Complaint 2 – Resolution Agreed

A complaint was considered directly at the final stage of the Adults' statutory complaints process in relation to disputed fees (unpaid) to the complainant's mother's nursing home. An interim financial arrangement was put in place pending progress of a deferred payment agreement and the outcome of the mother's assessed client contribution.

Complaint 3 – Part Upheld

A complaint disputing what the complainant's mother's direct payments could be used for was reviewed at the final stage.

The use of direct payments and the Council's was not upheld; the Council provided evidence that this position was in line with Care Act instructions.

An element of the complaint related to delays in the Council providing an updated support plan. This was upheld, and as a result the broad complaint was categorised as part upheld. An apology was issued for the delay in providing an updated support plan. The broader issue around use of direct payments was not upheld and the Council provided relevant extracts from the Care Act to support this position.

Complaint 4 – Part Upheld

A complaint was made disputing the content of a support plan and that a financial assessment was not fit for purpose, requiring a reassessment.

This complaint was considered through the corporate complaints process in agreement with the complainant, following a file review by the Customer Relations Team.

The element relating to the financial assessment was not upheld.

It was agreed that complaints relating to omissions in the support plan required review from operational staff and for that reason, the complaint was part upheld.

Complaint 5 – Part Upheld

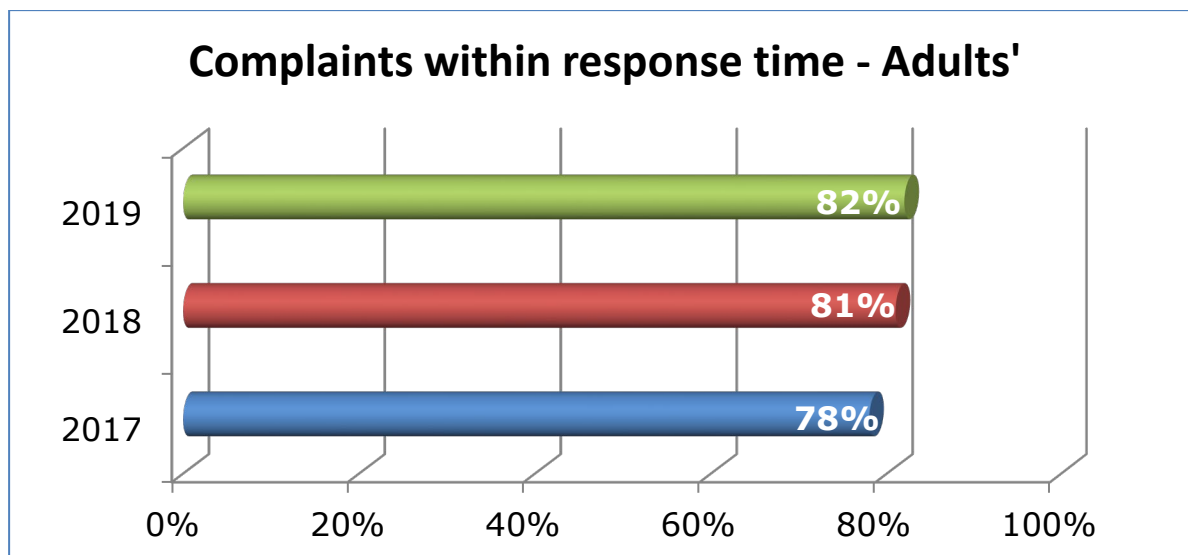
A complaint was made following an administrative error caused a delayed payment to a care home. An apology was made and arrangements put in place to make payment and to explain the error to the home.

2.3 Performance

The Council's guidance on managing Adults' Social Care complaints makes clear the expectation of staff responding to a formal complaint at stage one of the complaints procedures:

West Sussex County Council has set a target of responding to all complaints about Adults' Services within 20 working days (one calendar month).

Individual Complaints Action Plans should only give a timescale of over 20 days in extremely unusual circumstances – and provide an explanation of why this is necessary in the Plan itself.



In 2019, 82% of stage one complaint responses were issued within timescales or within an extended timescale. This figure is slightly higher than that recorded in 2018 (81%) and is representative of continuing improvement year on year.

The timeliness of complaint responses is of huge importance across all Council services and is an element of complaints management the Customer Relations Team is constantly reviewing.

The Complaints Manager sought to address the timeliness of complaints responses, introducing a reporting tool with a RAG (red, amber, green) warning system for managing open complaints. This is cascaded to all senior managers within Adults' Social Care on a weekly basis.

Senior managers are provided with a quarterly snapshot report of complaints, MP enquiries, compliments and Freedom of Information Act request to provide a headline view of performance across all of the casework facilitated by the Customer Relations Team.

The Customer Relations Team introduced a new complaints system (Infreemation) on 1st November 2019 to facilitate all complaints received within the Council. Infreemation provides responding managers with daily as well as weekly reports reminding staff of outstanding casework and impending deadlines. The RAG reports remain in place and are sent automatically to senior managers via Infreemation.

Responding to complaints within the specified timescale is a *statutory* obligation and continued improvement on the performance reported in 2019 is an absolute priority.

A further priority is to ensure that the *quality* of stage one complaint responses are of a standard that drives down avoidable escalation. It is accepted that complainants have a statutory right to escalate complaints if they disagree with the outcome of the stage one investigation, and that the Council can have little control over this. However, by ensuring that all elements of complaints are considered fairly and thoroughly, the Council can work towards reducing unnecessary

escalation. Robust quality assurance of stage one responses is now one of the core responsibilities of the Customer Relations Officers to ensure that all responses are of the expected standard and are fair and accurate in their findings.

2.4 Financial remedies

The complaints process is not designed to facilitate compensation payments. The Council will sometimes offer goodwill gestures, or ex-gratia payments in recognition of identified fault, but this is in itself quite rare. The local Government and Social Care Ombudsman (LGSCO) has published guidance on remedies for complaints scenarios, and this guidance is used when payments are considered as a result of a complaint being upheld.

Financial remedy payments are not 'compensation' but they are a method recommended by the LGSCO for resolving complaints where the Council has been found to be at fault and is unable to resolve the situation in another way. The volume of complaints considered by the Council covers a range of issues raised by customers, which means that it will always be hard to predict what overall levels of financial remedy are likely to be offered by the Council.

The amount recorded as paid to complainants as a financial remedy increased from £2,743.34 paid in 2018 to £7,283.49 in 2019.

The £7,283.49 resulted from a number of complaints.

An award of £1,650 was recommended following a LGSCO investigation. The LGSCO instructed the Council to pay £1,000 to a customer (the subject of the complaint) in recognition of shortcomings in daily care provided and the Council's delay in providing regular support from a support worker. A further £650 was awarded directly to the complainant for the impact and stress these shortcomings had on them.

A financial remedy of £1,500 was paid in relation to an LGSCO investigation that concluded in 2016. Following protracted work with a customer who had since left West Sussex, the Council made the recommended payment in recognition of the failure to assess the complainant's care needs properly.

It should be noted that this payment does not relate to a LGSCO decision reached in 2019, rather it was made on the date the recommended independent reassessment concluded.

£2,283.49 was paid to a customer as a result of a complaint about assessed contribution to care was found to be upheld by the Council.

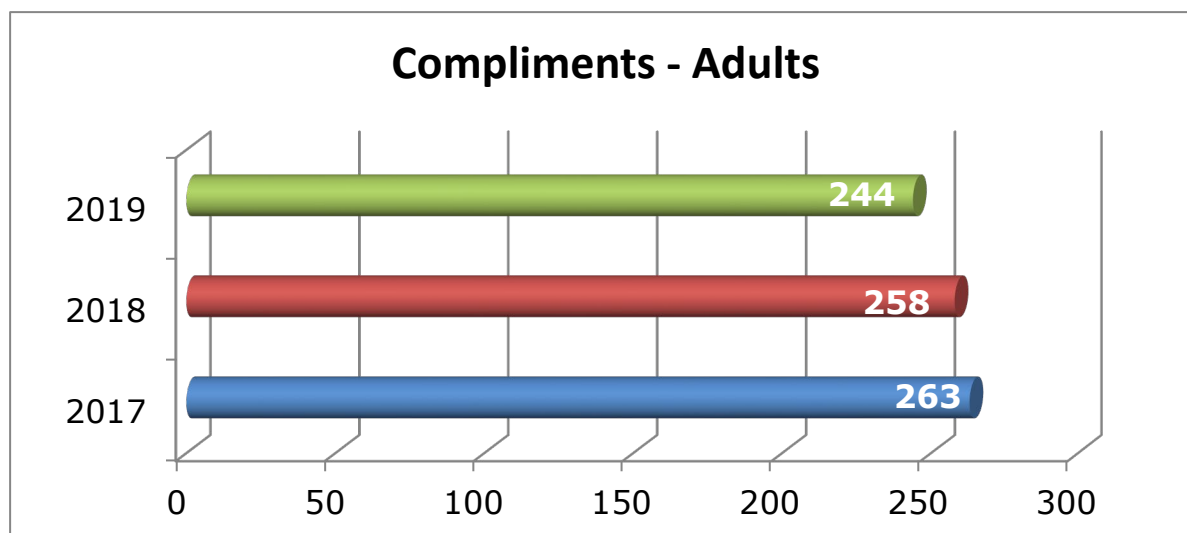
A payment of £1000 was made to a customer in recognition of the way the Council handled a Safeguarding Adult Review.

A further £850 was awarded as financial remedy following LGSCO investigations. The detail of those awards is set out in section 5 of this report.

2.5 Compliments

When a customer is so satisfied with the service they have received that they make a special mention of it, the Council records this as a compliment.

The number of formal compliments received in Adults' Social Care remains very high when compared with other directorates; it is a slight concern that the number of compliments recorded has decreased again, from 263 in 2017; 258 in 2018; to 244 in 2019.



Although this decrease is minimal, the Customer Relations Team has been proactive in reminding senior managers on the Quality Assurance Board of the requirement and importance of ensuring all formal compliments are presented for formal recording. It is hoped that the levels of recorded compliments increases in 2020 but it is encouraging to see the consistent number of customers expressing their satisfaction by services provided by Adults' Social Care.

Compliments are important when helping our organisation understand what 'good' looks like and to celebrate our successes, supporting the staff recognition platform and helping our organisation live and breathe our customer centre value.

Some examples of the compliments received by Adults' Social Care staff in 2019 are listed below:

Chichester Community Team

"Please can I start by saying a huge thank you for all the help and time you have put in over the past few weeks? It has been so much appreciated. I think it hasn't been easy for you but you have been patient and kind. I really appreciate the work you have done on our behalf."

Stanhope Lodge

The Learning Disabilities Mortality Review (LeDeR) is a national programme aimed at making improvements to the lives of people with learning disabilities whilst also looking into premature deaths of people with a learning disability.

A review was done in relation to a customer who had lived in Stanhope for some time in a single person service and it included the following:

"Staff at Stanhope Lodge were excellent advocates for [the customer] when he was in hospital. He was supported at all times by someone he knew despite this being more than his package of care."

Western Area Hospitals Team

"I just wanted to drop you a line to say thank you so much for all you have done for [the customer]. He's so very happy now and I have my brother back."

You have done so much for my family and I shall be eternally grateful to you.

I hope all is well you and I think we are all so very lucky to have met such a lovely caring person as you.

He talks about you often and has asked me for your number to just say hello and thank you personally."

St Richards Hospital Social Work Team

"I can't thank you enough for your tenacity and diligence. Mum has had an amazing week. She didn't realise how much her caring role has taken away from her."

You're another angel on our ever growing list."

3 Complaints delivering insight to action

Within the Customer Experience space we have a number of corporate measures which will help us focus on improving the service we provide our customers:

- *Level of Satisfaction with the services received by our residents*
- *Residents finding it easy to access information service and support they need*
- *Freedom of information requests responded to within time*
- *The County Council response to recommendations from customer complaints.*

Insight from complaints plays a key role in how we deliver the right outcome to our customers and in continually improving our service delivery. To achieve this there has been much activity within the way we collate and learn from our customer complaints. The Customer Experience team improved the way we report to senior managers with the continued development of the Compliments and Complaints Dashboard which informed improved reporting and learning from complaints, locally and across the Council.

2019 marked a departure from the previously established Working Together Focus Group, which was established in the summer of 2017 to consider operational learning and service improvement identified in the analysis of complaints received across the Council.

The effectiveness of these quarterly whole Council meetings was reviewed in 2019 and a decision was made to present updates on complaints and organisational learning to already established focus groups. The Customer Relations Team now attends focussed senior leadership team meetings as well as the Quality Assurance Board to discuss specific issues relating directly to the senior managers in attendance.

The focus remains on ensuring that our customers benefit from the recommendations made as a result of a complaints investigation, but also that operational managers are empowered to make organisational improvements as a direct result of those recommendations. While systemic improvement is not always a by-product of an upheld complaint, the Customer Relations Team is committed to ensuring that remedies and learning are recorded, reported and monitored to completion.

Insight from complaints plays a key role in how we deliver the right outcome to our customers and assists the Council to continually improve our service delivery. To further empower managers to keep up to date with service performance, the Customer Relations Team have taken steps to improve the availability of performance statistics through formal reporting, and by continually developing and updating 'real time' management tools.

The Customer Relations Team and the Customer Experience Analyst maintained a Compliments and Complaints Dashboard in 2019, which allows the user to examine performance, in terms of numbers, timescales and outcomes, from Council-wide down to individual teams and from a number of years down to individual months. Although of particular interest to managers, this is open to all staff.

Work is also underway to benchmark our performance with statistical neighbours to ensure we are in a place where we know what 'good' looks like and to be able to measure our performance against other authorities.

All of this insight will feed into the Customer Relations Team's presentations to the Performance Board and the Senior Leadership Team meeting, helping to paint a full picture of why our customers complain and to have a framework in place that will help us continuously improve where we can avoid a complaint being made.

A programme of complaints training for Team Managers was rolled out in 2018 and is due to be repeated in 2020. The Complaints Manager and the Customer Relations Manager have revised and improved guidance for responding managers; this guidance is provided by the Customer Relations Team to all responding managers when complaints are allocated for response.

3.1 Learning from complaints

All complaints that are upheld partly or in full are examined for learning at individual, team, and service level. Learning specifically from stage 2 complaints investigations is addressed in the section of the report relating to those investigations.

Most upheld complaints are found to arise from individual errors, where policies, procedures or good practice have not been followed. In these cases the usual process is for the individual to be appropriately advised by their manager about

their mistake, and if necessary to undertake appropriate retraining. On very rare occasions the team level analysis finds that whole teams are acting in a way which is not in accordance with the latest guidance, and this will then be raised at team meetings.

Occasionally the service level analysis indicates that changes can be made which will benefit all customers. Examples of such changes in 2019 were:

A complaint about delays highlighted that there was too much work for the number of people in the team, and two more people were recruited to enable the team to meet demand;

A complaint that equipment was not installed in a timely way led to a change in the way installation timings were allocated so that the most distant addresses were not allocated slots at the end of the day;

A complaint about the advice being given to customers in connection with charging and full cost invoicing led to changes in public information booklets to help customers better understand the position. The same complaint led to changes in the relevant policy and guidance;

A complaint about the way a Blue Badge appeal was dealt with led to a review of the process and the introduction of a management check to ensure appeals are kept on track.

In addition, some complaints which indicated individual learning were considered of such importance that all staff were reminded of good practice, such as making full notes in a timely way and recording on the file exactly what information had been handed to customers.

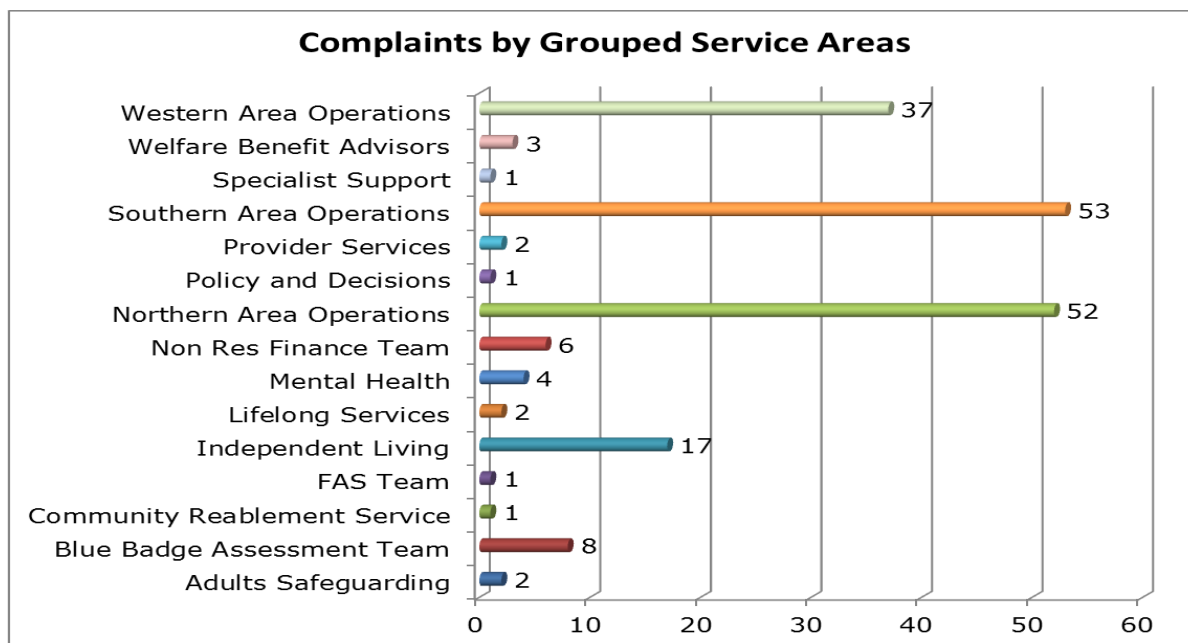
4 Service Commentary

Adults' Services	Stage One	Stage One Upheld	% upheld	Stage One % within 10 days or notified extension	Stage Two	LGSCO	Compliments
2019	190	44	23%	82%	34	35	244
2018	166	43	26%	81%	14	21	258

Adults' Social Care is, historically, one of the three main service delivery groups that report the highest number of complaints.

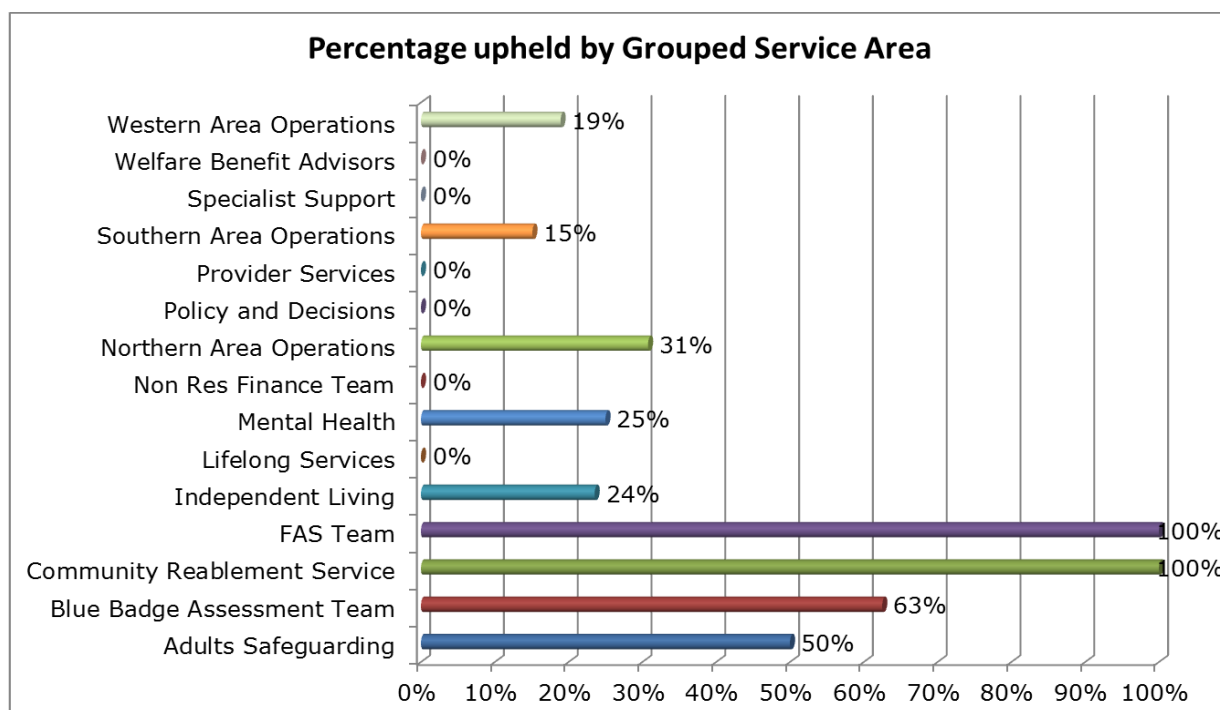
To understand the headline figure of 190 complaints recorded against Adults' Social Care, it is necessary to drill down into the data, to add appropriate context.

The table below shows a breakdown of complaints by grouped service areas for 2019. The table is useful to provide an overview of the complaints received across the service areas; inevitably the numbers are dominated by the geographical operational areas.

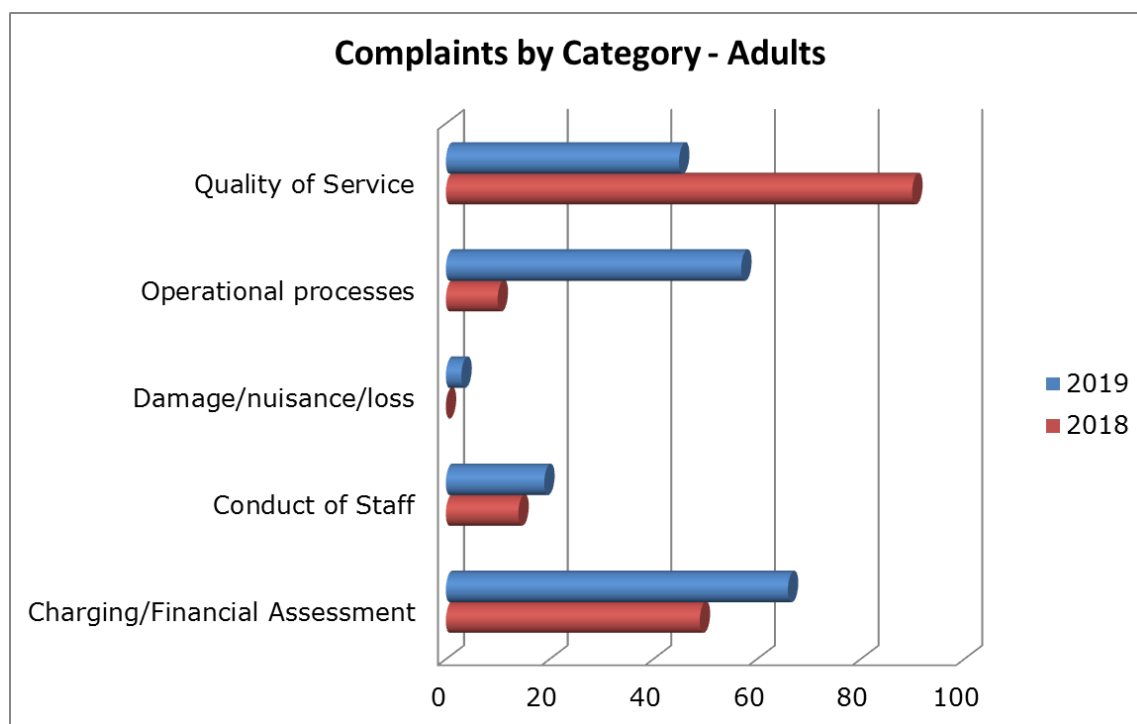


It has already been reported that the percentage of upheld complaints in Adults' Social Care (23%) is slightly higher than the whole Council average of 22.2%. The graph below shows the upheld rates across the grouped service areas in 2019.

The extremely small data sets for the FAS Team; the Community Reablement Service; and Adults' Safeguarding create unusually high upheld rates. With the exception of the Blue Badge Assessment Team and the Northern Operations Area, the percentage of upheld complaints by grouped area do not deviate far from the overall Adults' Social Care upheld rate, or that of the whole Council. For further context, the Blue Badge Assessment Team received 16,883 applications for a badge in 2019 resulting in 8 formal complaints being considered.



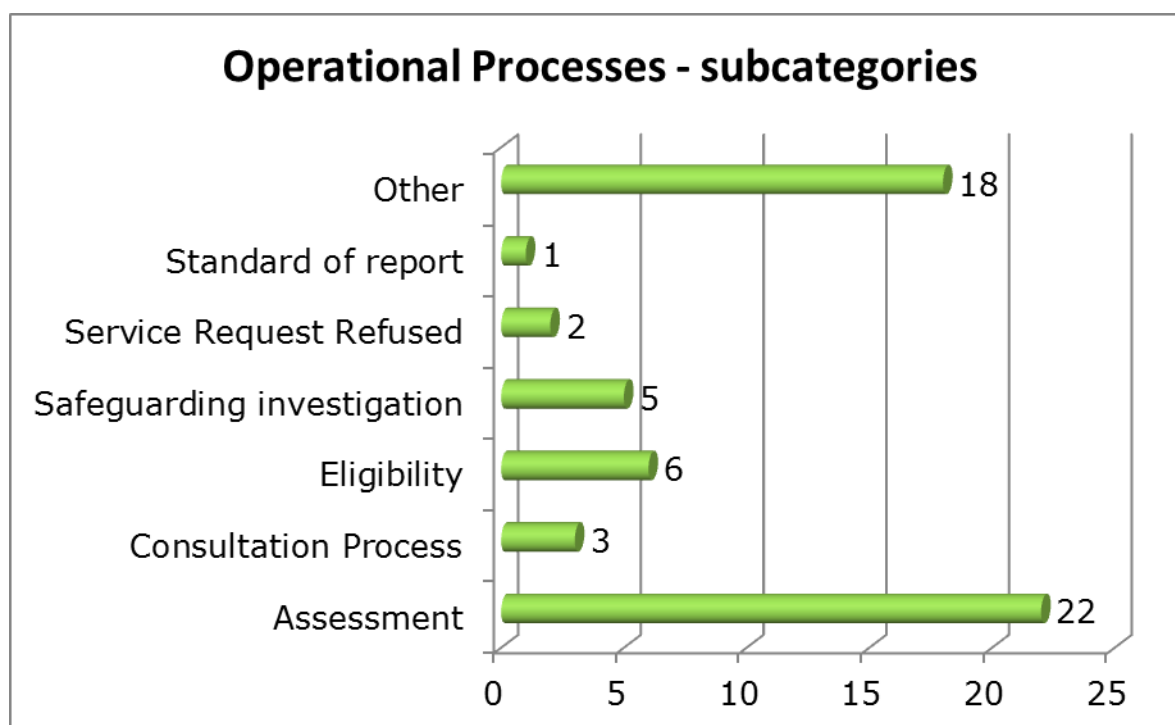
The graph below shows the category of complaints received about Adults' Social Care. Complaints about social care provision are often complex and can include dissatisfaction about many elements of the service provided. For reporting purposes, the assigned category is a reflection of the salient or substantive issue complained about.



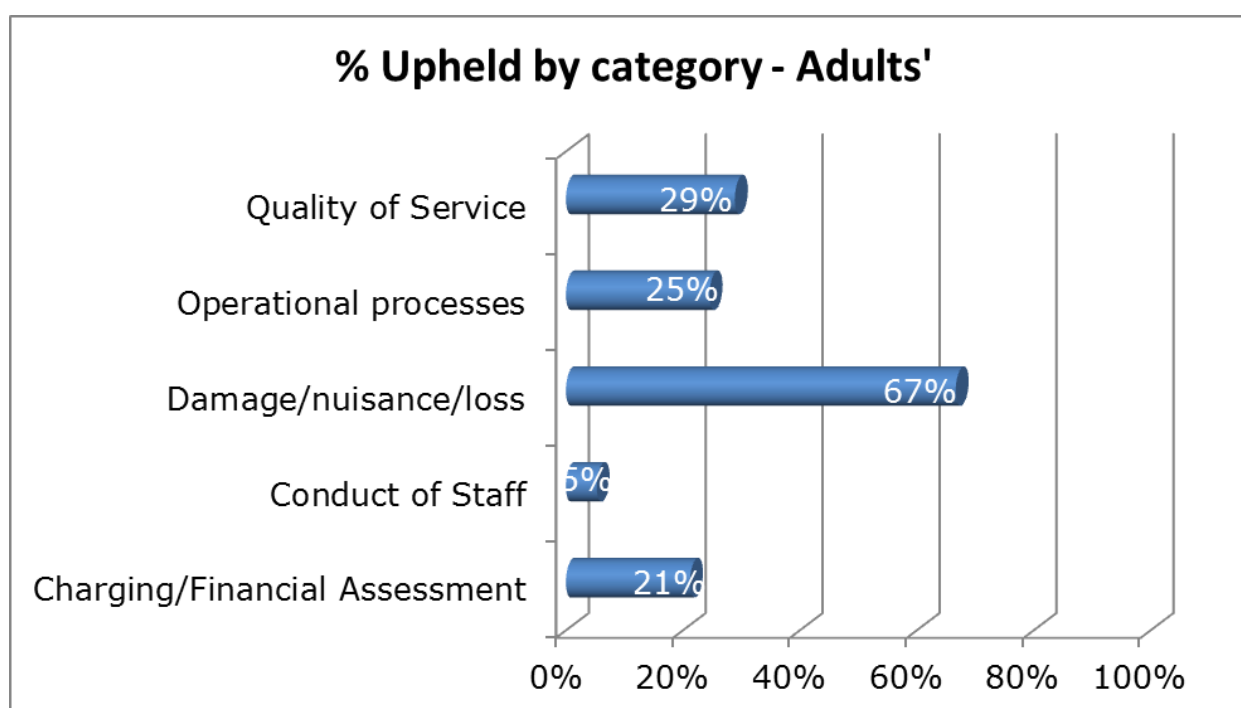
The category 'operational process' was broadened in 2019 to include sub-categories to enable management to better understand what areas of operational processes were the subject of complaints; the sub-categories are detailed in the graph below.

The complex nature of social care means that it is not always possible to categorise a complaint about operational processes within the established reporting categories. In these cases, the complaints are recorded under 'other operational process'.

The Complaints Manager continues to monitor and add to the recording categories in an effort to further understand the specific detail of trends in complaints relating to dissatisfaction with operational process.



The graph below shows the percentage of complaints upheld in each category.



5 Local Government and Social Care Ombudsman

Once a customer has exhausted the Council's complaints procedures, they have the option to ask the Local Government and Social Care Ombudsman (LGSCO) to consider their complaint. This report focusses on the number of LGSCO decisions reached in the reporting period, as it is from these decisions that meaningful data and learning can be analysed.

The number of *decisions reached* by the LGSCO increased from 21 decisions recorded in 2018 to 35 decisions recorded in 2019.

The LGSCO has three different upheld categories:

- Upheld: Maladministration and injustice;
- Upheld: Maladministration, no injustice;
- Upheld: No further action

In 2019, the LGSCO returned an upheld decision on 15 of the 35 complaints considered; this represents a 43% upheld rate, which represents a marked increase in the percentage of upheld complaints recorded in 2018 (32%).

It is not possible to predict accurately how many complaints will be escalated to the LGSCO, as all complainants have the right to request their complaint is reviewed by the LGSCO.

Local resolution is key to improving the customer experience, and escalations to LGSCO will remain a focus for continual monitoring and review, as we try to resolve complaints for customers as quickly and simply as possible.

Details of these upheld complaints and associated learning are outlined below.

Lifelong Services Northern Area

Mr and Mrs C complained the Council delayed in completing a reassessment of their daughter's care needs and failed to assess properly her needs which resulted in a reduction in her care package.

The Ombudsman has found fault by the Council in delays in support planning, delay in a subsequent review and record keeping failings.

Learning Completed

At the time of making the decision, the Ombudsman was satisfied that the Council had already apologised, reviewed arrangements for car, and agreed to complete a review on how well the new arrangements were meeting assessed needs.

The LGSCO recorded the remedies as '*remedy complete and satisfied*'.

Worthing Community Team

Ms C complained about the care support her brother received after their mother had a stroke and was no longer able to support him.

The Council was found to be at fault and accepted there was a delay in providing a six hour increase in Mr B's support, and some shortcomings with regards to his homecare.

Learning Completed

The LGSCO instructed the Council to pay a financial remedy and to apologise for the elements of the complaint that were upheld. The Council also ensured that the findings from this investigation were shared and discussed at senior management level to ensure learning was captured at that level.

The LGSCO recorded the remedies as '*remedy complete and satisfied*'.

Adults' Safeguarding

Mr B complained about the way the Council handled a Safeguarding Adult Review (SAR), following a serious injury sustained by his brother, Mr C, whilst in residential care.

The LGSCO found fault in the way the SAR report was publicised and the way in which it involved Mr B in the process.

Learning Completed

The LGSCO instructed the Council to formally apologise; to Mr B and Mr C and to pay a financial remedy. The LGSCO also instructed the Council to evidence how it had improved its role in safeguarding processes as a result of this complaint. A payment of £1000 was awarded to Mr C.

The LGSCO recorded the remedies as '*remedy complete late*'.

Horsham Community Team

Ms C complained about the care her mother received at her care home, during the last few weeks of her life.

The LGSCO found that there was fault in the actions of care home staff when caring for Ms C's mother and found that the Council ought to apologise for this.

Learning Completed

The Council complied with the LGSCO instruction to ask the care home to share lessons learned with staff and provided an apology to Ms C.

The LGSCO recorded the remedies as '*remedy complete and satisfied*'.

Adur Community Team

Mrs C complained that the Council treated a gift from her mother, Mrs B, as a deliberate deprivation of assets. She said the Council rejected evidence her intent was not to avoid care fees.

The LGSCO found fault in how the Council had considered the issue of deprivation of assets and instructed the Council to undertake a further review, and to allow Ms C to respond to queries previously made by the Council.

Learning Completed

The Council agreed to carry out the reassessment.

The LGSCO recorded the remedies as '*remedy complete and satisfied*'.

Mental Health Services

Mrs X complained on behalf of her mother, Mrs Y. Mrs X complained the Council failed to safeguard Mrs Y, after it left her alone at home for a period of time after it made the decision to admit her to hospital under the Mental Health Act.

The LGSCO found the Council to be at fault as it had failed to complete a risk assessment or to document the decision to leave Mrs Y alone.

Learning Completed

The Council agreed to review its policy and procedures to ensure all Approved Mental Health Professionals are aware of the importance of risk assessments and documenting decisions.

A payment of £150 was awarded to Mrs X

Crawley Community Team

Mrs D complained that the Council should not recover direct payments which she says she used to pay for her mother's care.

The LGSCO found fault with the Council as it had failed to clearly explain the reasons for pursued debt.

Learning Completed

The Council was instructed to review statements and inform Mrs D of the outcome.

A payment of £200 was also made to Mrs D for the time and trouble spent pursuing the complaint.

The LGSCO recorded the remedies as '*remedy complete and satisfied*'.

Crawley Mid-Sussex AOT

Mr X complained that the Council had delayed completing a carer's assessment in 2018.

The LGSCO found fault in the Council for delaying the assessment for over three months.

Learning Completed

The Council apologised to Mr X and made a payment of £300 in recognition of the injustice suffered.

The LGSCO recorded the remedies as '*remedy complete late*'.

Worthing Community Team

Ms D complains about the way in which the Council reassessed Mrs M's needs and determined her personal budget for homecare support.

The LGSCO found fault with the Council's assessment process and the way this was recorded. The LGSCO also found fault with the Council's delay in carrying out a care review.

Learning Completed

The Council backdated the personal budget and also shared the faults and lessons learned with all social care staff, reminding them of the importance to explain to clients how and why they have reached a decision.

A payment of £200 was awarded to Ms D.

The LGSCO recorded the remedies as '*remedy complete and satisfied*'.

Worthing Community Team

Miss X complained about the Council's decision to refuse a discretionary property disregard for her mother.

The LGSCO found fault in the Council's delay when informing Miss X of the decision, but found no fault in the decision making process.

Learning Completed

The Council reviewed the process to check decision letters have been sent on time and took steps to ensure staff kept a record of the date decisions were issued.

The LGSCO recorded the remedies as '*remedy complete and satisfied*'.

Western Hospital Social Work Team

Mr and Mrs C complaint the Council failed to tell them there would be a charge for the homecare Mrs C's mother, Mrs M would receive.

The LGSCO found that, while there was some fault in the actions of the Council, it did tell Mr C there would be a charge. The Council had already taken appropriate action to address any faults and remedy any injustice.

Upheld: Maladministration, no injustice

Worthing Community Team

Mrs C complained the Council did not give proper support to her mother-in-law and family over the financial aspects of her mother-in-law going into residential care.

The LGSCO found fault in the Council's explanation to Mrs C in regards to the reasons a new financial assessment was required. The Council was also found to be at fault for delays in completing the reassessment.

The fault was not considered to cause injustice to the family.

No remedies were set as a result of this investigation.

Chichester Community Rehabilitation Team

Mr and Mrs X complained that the carer's payment the Council offered them was not enough to allow them to take the overnight breaks they need.

The LGSCO found that the Council was not at fault in the way it considered the question of respite. There was some fault in the way the Council dealt with the request for a higher carer's payment, but this did not affect the decision made.

The fault was not considered to cause injustice to the family.

No remedies were set as a result of this investigation.

Other LGSCO Outcome

Upheld: not investigated; injustice remedied during complaints process

Littlehampton Community Team

Mr A complained to the Council about the way it had communicated with him regarding his parents care needs assessments and decisions it made about his parents.

The LGSCO decided not to investigate the complaint because the Council had agreed to remedy any injustice caused by fault (in this case communication and distressed caused by it) by allocating a new social worker and to progress direct payments as well as undertaking an assessment.

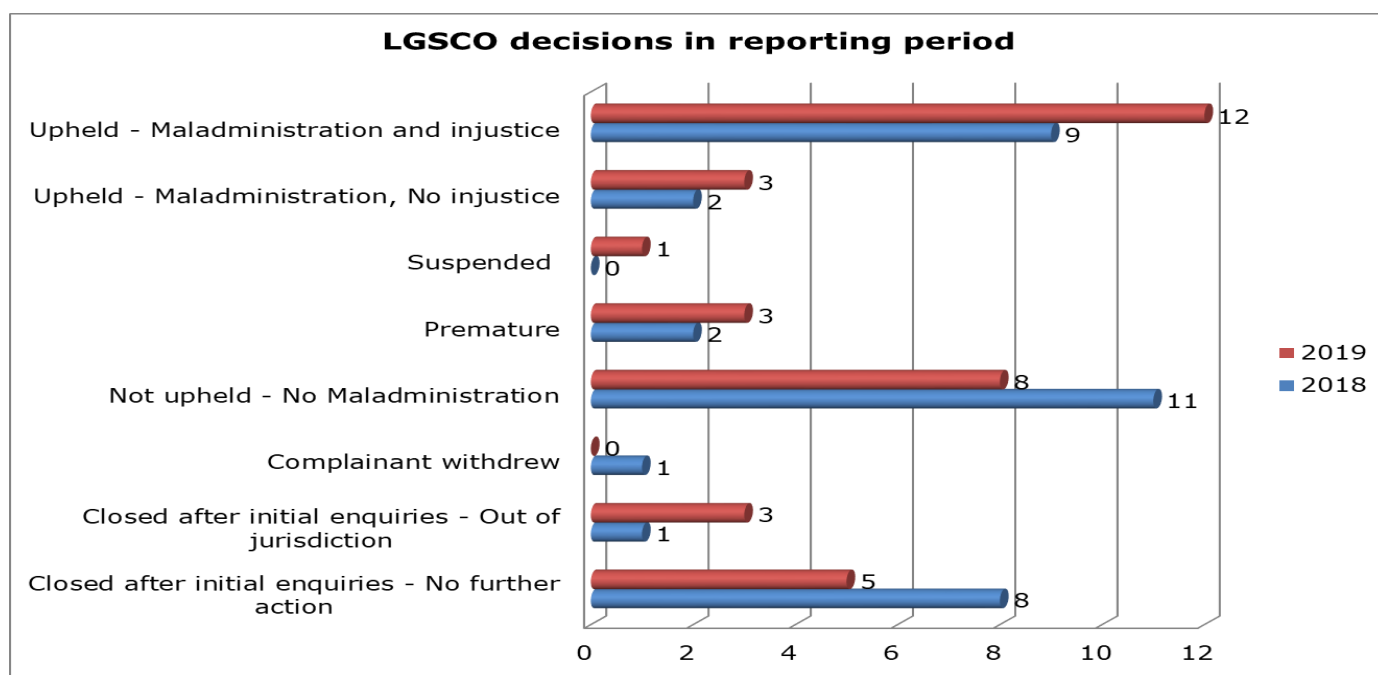
The LGSCO made a finding of 'Upheld: not investigated; injustice remedied during complaints process'.

Upheld: Maladministration and Injustice - NFA

Lifelong Services Coastal Team

Mr X complained the Council has failed to provide him and his daughter with the support they need. Although the Council failed to arrange additional support after Mr X turned it down in March 2018, this did not cause injustice which warrants a remedy

The LGO did not make a finding that resulted in a remedy.

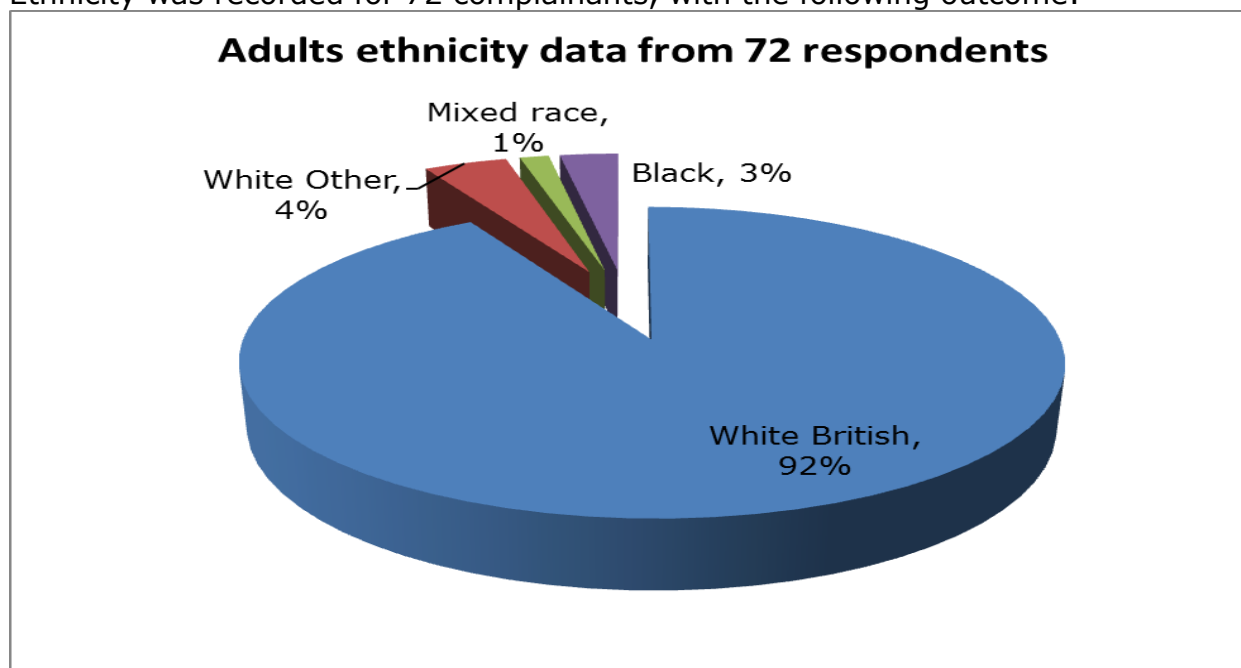


An anonymised list of cases considered by the LGSCO is available from the Complaints Manager David.Tominey@westsussex.gov.uk; all anonymised decision reports are held on file and accessible on request.

6 Equalities Monitoring

The process for monitoring complaints by age, sex, race, disability, religion or belief, and gender reassignment has historically produced insufficient data to form any realistic judgement as to the effectiveness of the procedure for individual groups.

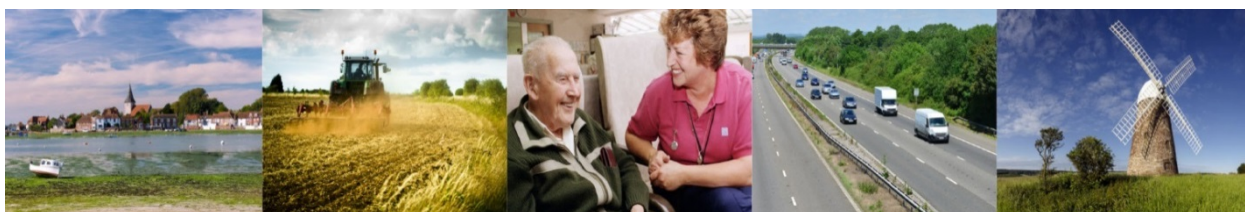
Ethnicity was recorded for 72 complainants, with the following outcome:



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Children's Social Care Annual Report: Compliments and Complaints 2019



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Executive Summary

This is the 2019 annual report for Children's Social Care compliments and complaints. The report covers the period 1 January 2019 to the 31 December 2019.

Local authorities are legally required to establish complaints procedures to deal with complaints about their social care functions. The complaints procedure for children and young people is covered by the Children Act 1989 and the Department for Skills and Education produced guidance, 'Getting the Best from Complaints' (2006), which outlines the procedures which local authorities must have in place.

This year, the County Council has produced a dedicated complaints report for both Children's Social Care *and* Adults' Social Care. Historically, the County Council has reported on Children's Social Care complaints as part of a broader *whole Council* annual report. The decision to produce separate reports for Children's and Adults' Social Care was made to enable the County Council to produce a more focussed review of complaints received in respect of our service delivery to our most vulnerable customers.

The purpose of this report is to review the operation of the complaints process over a 12 month period, including statistical data, and to provide the local authority with the means by which it keeps itself informed about complaint themes and how effective its current arrangements are for handling customer complaints.

This report also provides information for decisions issued by the Local Government and Social Care Ombudsman (LGSCO) in 2019, as well as compliments recorded by the Council.

The Council's definition of a complaint is:

"A complaint is an expression of dissatisfaction, however made, about the standards of service, actions or lack of action by the County Council or its staff, affecting an individual customer or group of customers"

The Council has two procedures for dealing with complaints about Children's Social Care, the Children's Social Care statutory procedure and the Corporate Complaints procedure. Full details of the procedures can be found on the Council's website, but put simply; the Council's aim is to resolve complaints for our customers as quickly and simply as possible. For this reason the initial stage is dealt with by the Manager responsible for the service, with an emphasis on trying to reach a resolution. If that resolution is not reached, the customer has the right to escalate matters to the next stage, where the complaint is reviewed by someone who has not been directly involved previously.

The Customer Relations Team, which is part of the Customer Experience Service, is the central team supporting customers and staff to ensure that making a complaint is as easy as possible for all concerned. The team consists of:

David Tominey, Complaints Manager, and four Customer Relations Officers.

The team can be contacted by emailing feedback@westsussex.gov.uk or by calling 033 022 28222

1 The overall picture

Complaints recorded against Children's Social Care from 1st January 2019 to 31st December 2019.

The table below shows the reasons recorded for complaints during 2019 in comparison with 2018 and 2017.

Complaint Nature	2017	2018	2019
Charging/Financial Assessment	7	4	6
Charging/Financial Assessment	7	4	6
Closure/Change/Transition between Services			1
Closure/Change/Transition between Services			1
Conduct of Staff	25	57	51
Behaviour	18	38	30
Competence	7	18	21
Failure Demand		1	
Damage/Nuisance/Loss	1		2
Damage/Nuisance/Loss	1		2
Data Protection/FOI	7	10	9
Breach of Confidentiality	5	10	5
Inaccurate data on file	2		1
Data protection/FOI - Breach of confidentiality			3
Operational Processes	8	15	107
Assessment	6	4	37
Eligibility		1	3
Legal proceedings			1
Safeguarding investigation	1	1	1
Service Request Refused			1
Other	1	7	18
Frequency			3
Level/quality of contact with child		2	26
Standard of report			14
Operational process - other			3
Quality of Service	131	150	73
Communication with service - Avoidable Contact	12	6	
Delays	3	12	16
Delivery	107	123	
Discrimination		1	4
External service Quality Alert			3
Communication with service - Failure Demand	5	5	22
Communication with service - Other	4	3	28
Grand Total	179	236	249

Explanatory notes:

1. *Figures in bold are the headline figures for a complaint category. Where a breakdown is available, the figures are shown immediately below.*
2. *The categories of 'avoidable contact' and 'failure demand' taken together describe complaints arising from situations which were avoidable if the Council was easier to contact, or where contact had been promised but was that promise was not kept. These two categories have now been combined to avoid confusion.*

The table below summarises the complaints and compliments recorded by all directorates or service units in 2019, highlighting how Children's Social Care compares against annual statistics for the rest of the Council. The numbers for the LGSCO reflect the number of *decisions received* in the reporting period.

Complaints by Directorate 2019	Stage One	Stage One Upheld	% Upheld	Stage One % within 10 days or notified extension	Stage Two	LGSCO decisions received	Compliments
Adults and Health							
Adult Services	190	44	23%	76%	36	21	244
Social Care Joint Commissioning	3	1	33%	67%	0	0	2
Children Young People and Learning							
Education and Skills	48	7	15%	83%	8	6	114
Children Services	249	59	24%	74%	44	15	45
Place Services							
Communities	19	11	58%	84%	1	3	4744
Environment and Public Protection	107	26	24%	64%	4	2	195
Highways, Transport and Planning	201	33	16%	85%	23	17	127
Resource Services							
Law and Assurance	5	3	60%	80%	1	2	1
Property and Assets	2	0	0%	100%	1	0	0
Finance, Procurement and Business Support	22	5	23%	86%	5	2	23
Fire Service							
Fire Service	4	2	50%	75%	0	0	28
Chief Exec's Office							
Chief Exec's Office	1	0	0%	100%	0	0	2
HR and Organisational Change							
HR and Organisational Change	3	0	0%	100%	0	1	1
Grand Total Complaints	854	191	22%	78%	123	69	5526

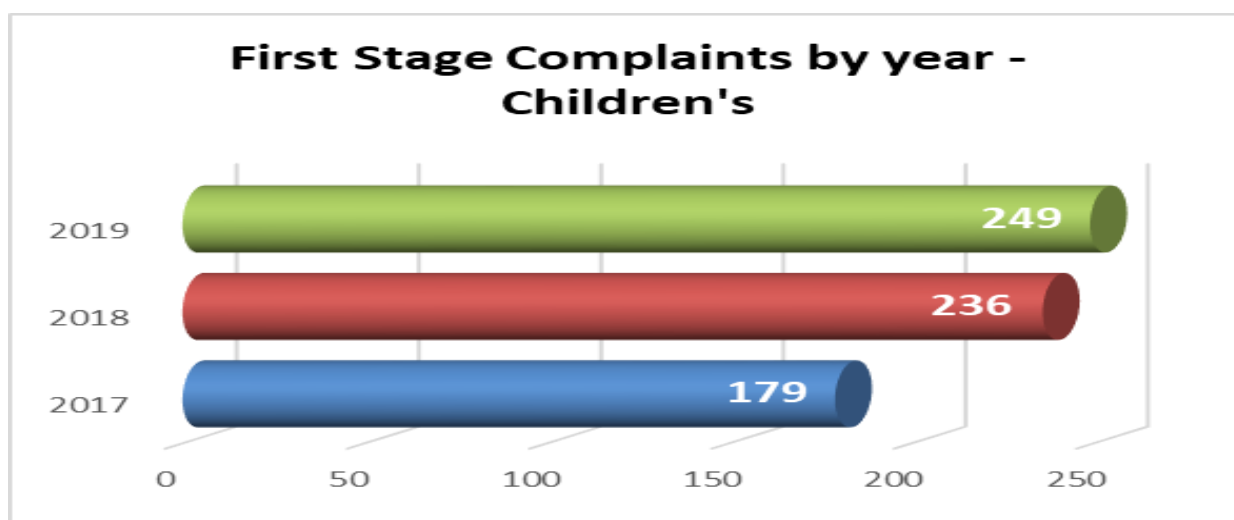
2 Analysis of overall figures

2.1 Stage One Complaints

In 2019 it was decided that Lifelong Services would be moved from the Adults' Social Care directorate to Children's Social Care. For reporting purposes, all complaints against Lifelong Services are now categorised as Children's Social Care complaints.

The published number of Children's Social Care complaints in 2018 was in fact 208. For reporting purposes, and to ensure meaningful year on year comparisons are possible, the 2018 figures have been restated to include complaints about Lifelong Services.

The number of complaints recorded at the first stage increased from 236 in 2018 to 249 in 2019. This represents an increase of 5.5% in formal complaints received compared to the restated figure recorded in 2018.



It is difficult to say with any degree of certainty what the reasons are for the volume of complaints traffic, but it is possible to comment on potential contributing factors.

The Council advertises the complaints process clearly and the Customer Experience Service has been instrumental in assessing the accessibility of the complaints service to all of our customers in 2019. The improved accessibility for our customers is intended to provide our customers with a platform from which to voice their dissatisfaction with services provided.

The Council works hard to ensure that young people are made aware of the complaints procedures and how to access it should they need to. The Advocacy Service contacts all children at the point when they become 'looked after', providing details of how to complain to the Council. In addition to this, the Council writes to every child in care over the age of seven twice a year to ensure that they and their carers are provided with information on how to make complaints about the services delivered by the Council.

In May 2019 Ofsted published their report into the performance of Children's Social Care and judged it to be 'inadequate'. While the Council continues to take focussed and appropriate action following the Ofsted inspection, the finding has been extensively covered in the media and has subsequently sparked an increase in the traffic of correspondence in complaints, MP enquiries and freedom of information requests received in relation to Children's Social Care.

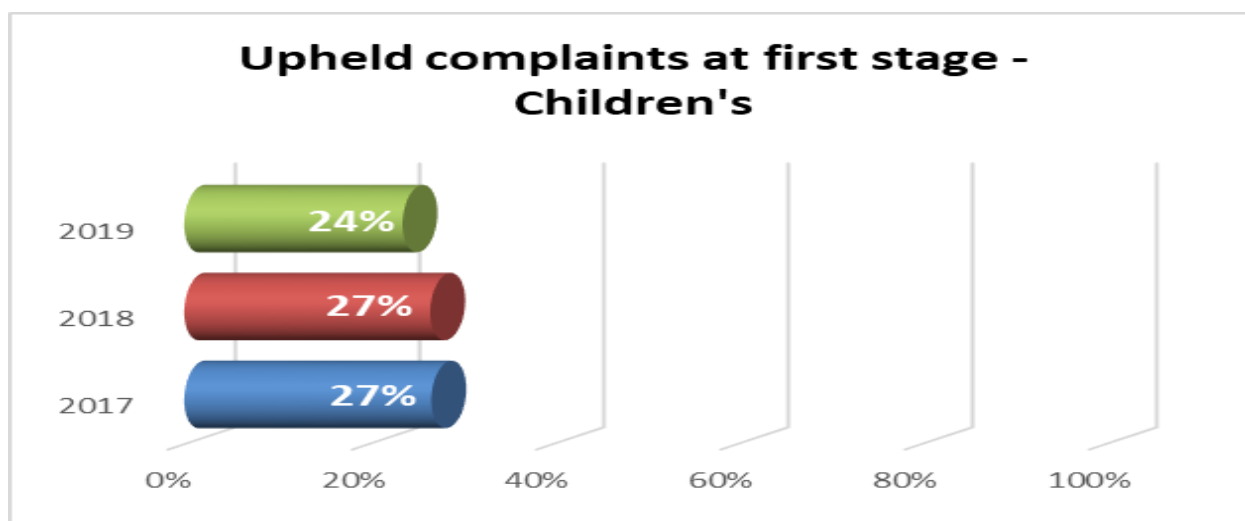
The number of formal complaints received by the Council is a fraction of one percent in proportion to the total transactions with service users and the public. If taken as a percentage of calls to the Customer Service Centre it would be 0.2%, however there are many more customer contacts through other channels.

This comment in no way infers that the Council simply accepts the level of complaints we have received. We want to avoid any customer needing to complain, but also regard every complaint as an opportunity to learn and to implement changes that will avoid future complaints being made, improving our customers' experience and in turn our customers' satisfaction levels with the Council.

There was an increase in complaints received by Children's Social Care in 2019 but the number of complaints upheld at stage one decreased from 27% in 2018 to 24% in 2019. This includes complaints that were 'partially upheld'.

The percentage of upheld complaints has decreased for the first time in three years; the percentage of upheld complaints recorded in 2017 *and* 2018 was 27%.

The percentage of complaints upheld in Children's Social Care (24%) is slightly higher than the whole Council average of 22.2%.

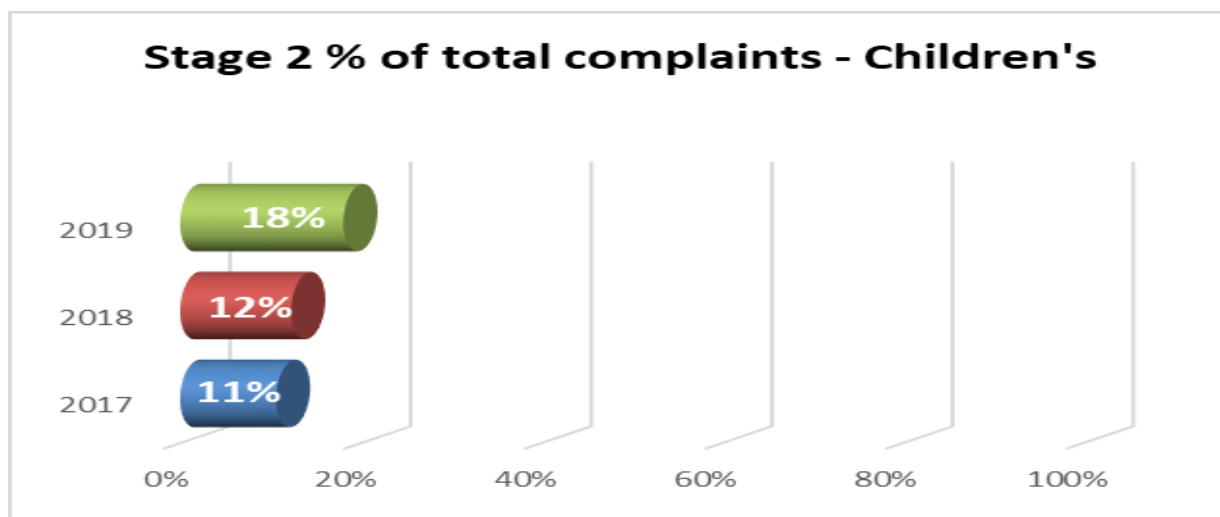


2.2 Stage Two Complaints

If a complainant is not satisfied with the response at the initial stage, they have the right to escalate their complaint for consideration at a more senior level.

The number of complaints considered at stage two of the Council's complaints procedure rose from 22 in 2018 to 44 in 2019; a 100% increase.

The number of complaints considered at stage two represents 18% of the total number of complaints received in Children's Social Care at stage one in 2019, compared with 12% of the total in 2018.



The Customer Relations Team has continued to ensure that responding managers are using templates which explicitly advise complainants of their right to escalate. It is likely that including escalation advice with every stage one response may have contributed to the increase in the number of escalated complaints in 2019. It is important that complainants are provided with clear instructions on how to pursue their complaints through the appropriate channels. This transparent approach is applied across the whole Council and is indicative of the integrity employed when managing the complaints process.

The Customer Relations Team reviewed the quality of responses at the early stages of the complaints procedures and a decision was made during 2019 that all responses to stage one complaints would be subject to quality assurance by the Customer Relations Team prior to the response being issued. Furthermore, a dedicated Customer Relations Officer for Children's Social Care was appointed in October 2019 to offer support and advice to responding managers tasked with responding to complaints.

Of the 44 stage two complaints investigated, 6 (14%) have been found to be upheld in full. Details of the operational learning and insight gained from those complaints investigations are listed below. Note that only five cases are referenced below; the sixth case is subject to ongoing review and it is not felt appropriate to refer to that in this report.

Assessment and Intervention

A complaint was made about the advice provided prior to the beginning of a fostering arrangement.

- The service was asked to consider the information is available for potential carers and to clearly set out the varying carer roles and associated financial arrangements.

Assessment and Intervention

A complaint was received from a grandmother who alleged that a child and family assessment contained factual inaccuracies. The grandmother further complained that she was not considered by the Council to be a person who could access the complaints procedures.

- The Service Manager agreed that Families would have the opportunity feedback their views on the assessments completed on families to ensure accuracy of information recorded;
- All managers to be reminded of the complaints procedures and when to seek consent. New workers to receive training as part of the induction process.

Family Support and Protection

A complainant felt that missed contacts with her children had not been rearranged; she had not been notified of changes to arranged contacts; and that assessments carried out required her children to miss school time, which affected their education.

- A planning meeting between the complainant and the Council was recommended to ensure a bespoke action plan was put in place with agreed review dates embedded within it;
- Training was identified by the service in relation to the importance of contact arrangements and promoting family relationships.

Assessment and Intervention

A complaint was made about the manner in which the Council conducted work with a new mother. The complainant expressed concerns about data management and the quality of the response to her initial complaint at stage one.

- Group Managers were instructed to challenge the quality of complaints responses to ensure that all concerns are addressed
- A review of practice was agreed to ensure that families are informed of the assessment process and any safety planning provided during the assessment.

Looked After Children

A prospective adopter raised concerns about delays in correspondence; poor communication between departments; poor record keeping; and failure of the Council to provide requested documents and policies.

- A communication strategy was put in place for the complainant in the event that direct social worker contact was not possible for any reason;
- Commitment to recruitment of social workers to ensure that manageable caseloads are distributed across a full workforce;
- Staff reminded of their obligation to communicate quickly and to provide information when required.

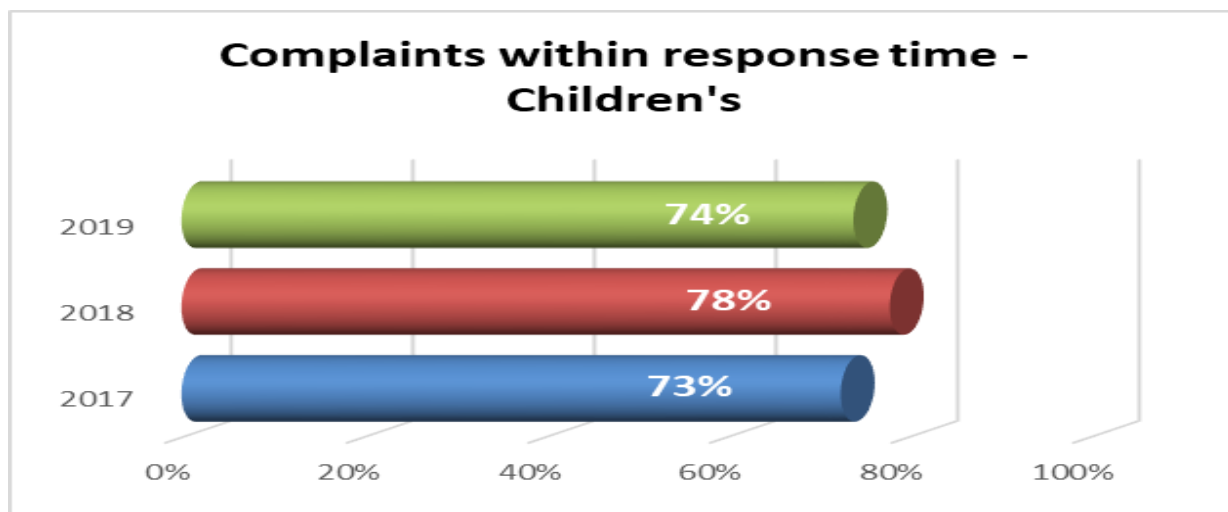
2.3 Performance

The number of stage one complaints recorded has increased across Children's Social Care in 2019 when compared with 2018. It is a concern that the number of compliments recorded has decreased from 126 in 2018 to 45 in 2019.

This decrease has been raised with the senior leadership team and with the Performance Board with the intention of reminding staff of their obligation to present all compliments to the Customer Relations Team for formal recording. It is hoped that the levels of recorded compliments improves in 2020.

The complaints procedure makes clear the Council's expectation of staff responding to a formal complaint at stage one of the complaints procedures:

The target timescale for response at stage one is up to ten working days from the date of receipt of the complaint, with a maximum of twenty working days.



In 2019, 74% of stage one complaints responses were issued within timescales or within an extended timescale. This figure is slightly lower than that recorded in 2018 (78%). The timeliness of stage one responses is a priority for Children's Social Care moving forwards into 2020. The complaints procedures do allow for an extended timescale, but complaints should be responded to within 10 working days wherever possible. In 2019 only 60% of complaints about Children's Social Care were responded to within 10 working days.

The Complaints Manager sought to address the timeliness of complaints responses, introducing a reporting tool with a RAG (red, amber, green) warning system for managing open complaints. This has been cascaded to all senior managers within Children's Social Care on a weekly basis.

The Customer Relations Team introduced a new complaints system (Infreemation) on 1st November 2019 to facilitate all complaints received within the Council. Infreemation provides responding managers with daily as well as weekly reports reminding staff of outstanding casework and impending deadlines. The RAG reports remain in place and are sent automatically to senior managers via Infreemation.

Despite the introduction of management oversight tools, the timeliness of responses is a continuing concern. Responding to complaints within the specified timescale is a *statutory* obligation and an improvement on the performance reported in 2019 is an absolute priority.

The Customer Relations Team now has a regular attendee on the senior leadership team meeting as well as the Children's Services Performance Board. The purpose of reaching out to senior managers in this way is to drive up the performance in responding to complaints within the expected timescales and to ensure that learning and identified fault in practice is discussed directly at senior management level.

Senior managers are provided with a quarterly snapshot report of complaints, MP enquiries, compliments and Freedom of Information Act request to provide a headline view of performance across all of the casework facilitated by the Customer Relations Team.

A further priority is to ensure that the quality of stage one complaints responses are of a standard that drives down avoidable escalation. It is accepted that complainants have a statutory right to escalate complaints if they disagree with the outcome of the stage one investigation, and that the Council can have little control over this. However, by ensuring that all elements of complaints are considered fairly and thoroughly, the Council can work towards reducing unnecessary escalation. Robust quality assurance of stage one responses is now one of the core responsibilities of the Customer Relations Officers to ensure that all responses are of the expected standard and are fair and accurate in their findings.

2.4 Financial remedies

The complaints process is not designed to facilitate compensation payments. The Council will sometimes offer goodwill gestures, or ex-gratia payments in recognition of identified fault, but this is in itself quite rare. The LGSCO has published guidance on remedies for complaints scenarios, and this guidance is used when payments are considered as a result of a complaint being upheld.

Financial remedy payments are not 'compensation' but they are a method recommended by the LGSCO for resolving complaints where the Council has been found to be at fault and is unable to resolve the situation in another way. The volume of complaints considered by the Council covers a range of issues raised by customers, which means that it will always be hard to predict what overall levels of financial remedy are likely to be offered by the Council.

The amount recorded as paid to complainants as a financial remedy decreased from £17,086.28 paid in 2018 to £6,373.83 in 2019.

The £6,373.83 resulted from two complaints.

An award of £200 was recommended following a LGSCO investigation. The LGSCO instructed the Council to pay £200 to the complainant as it considered his complaint through the corporate complaints procedure as opposed to the statutory complaints procedure.

The financial remedy of £6,173.83 was made as part of a stage two corporate complaints investigation.

The identified fault related to the mismanagement of a fostering arrangement and the subsequent shortfall in payments made to the foster carers. The Council agreed to backdate payments in line with the rate that should have been applied at the start of the placement.

2.5 Compliments

When a customer is so satisfied with the service they have received that they make a special mention of it, the Council records this as a compliment.

Compliments are important when helping our organisation understand what 'good' looks like and to celebrate our successes, supporting the staff recognition platform and helping our organisation live and breathe our customer centre value.

Some examples of the compliments received by Children's Social Care staff in 2019 are listed below:

Family Support & Protection

"I would like to praise one of your social workers who has been brilliant supporting us. She does tell me and advise me where she feels we need to improve and she is very happy to support us with any changes we may need to do she doesn't discriminate any part of our work together. If there was an employee of the month certificate then I feel she should be put forward to receive it we are as a family going to miss her when it comes to the time of not working with us".

Family Support and Protection

"I just want to say you are one of the best social workers I've ever had and I can't thank you enough for all your time your work you are doing for me. I am so stuck for words to say thank you very much for all your help and your time thank you".

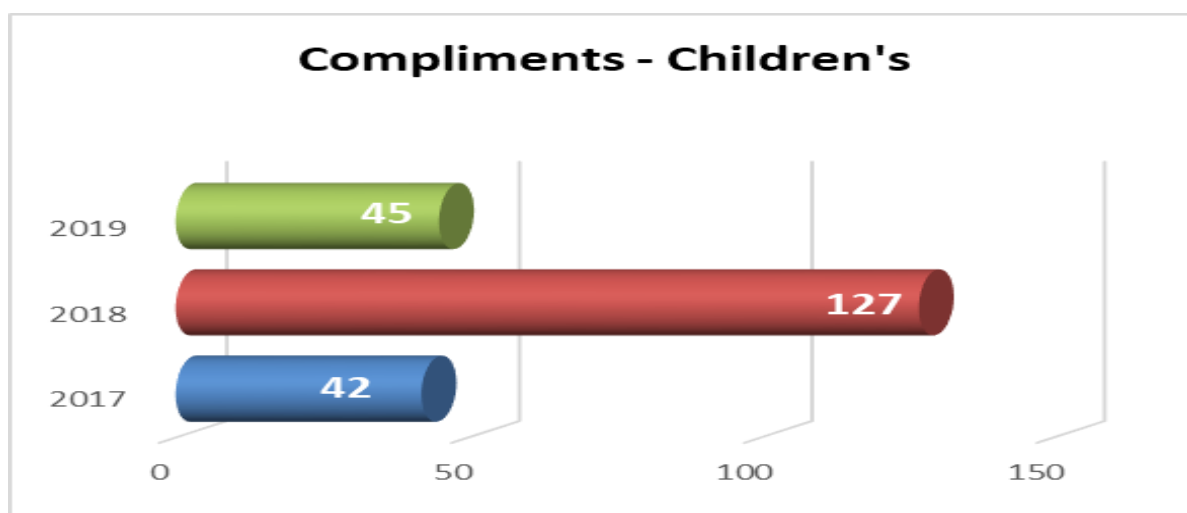
Lifelong Services

"I would like to say a most sincere thank you to you and the teams that have supported my son. The activities and your support, made possible by West Sussex played such a significant part in his adjustment and recovery after what has been a very difficult diagnosis; we will always be eternally grateful to you".

Leaving Care Service

"Mr B has been a brilliant support to me and he has taught me a few things I did not know about the Leaving Care Service for example the setting up housing fund. He has been extremely helpful towards me and pointed me in the right directions, he understands who I am also it is very hard to find someone to understand how your mental illness impacts you but he understands fully. I am so grateful towards all of West Sussex Leaving Care Service but mostly I am grateful towards Mr. B for his honesty and generosity he has put in to finding me the best advice".

The number of compliments recorded has decreased from 126 in 2018 to 45 in 2019. This represents less than 1% of the total compliments received by the Council as a whole in 2019.



3 Complaints delivering insight to action

Within the Customer Experience space we have a number of corporate measures which will help us focus on improving the service we provide our customers:

- *Level of Satisfaction with the services received by our residents*
- *Residents finding it easy to access information service and support they need*
- *Freedom of information requests responded to within time*
- *The County Council response to recommendations from customer complaints.*

Insight from complaints plays a key role in how we deliver the right outcome to our customers and in continually improving our service delivery. To achieve this there has been much activity within the way we collate and learn from our customer complaints. The Customer Experience team improved the way we report to senior managers with the continued development of the Compliments and Complaints Dashboard which informed improved reporting and learning from complaints, locally and across the Council.

2019 marked a departure from the previously established Working Together Focus Group, which was established in the summer of 2017 to consider operational learning and service improvement identified in the analysis of complaints received across the Council.

The effectiveness of these quarterly whole Council meetings was reviewed in 2019 and a decision was made to present updates on complaints and organisational learning to already established focus groups. The Customer Relations Team now attends the senior leadership team meeting as well as the Performance Board to discuss specific issues relating directly to the senior managers in attendance.

The focus remains on ensuring that our customers benefit from the recommendations made as a result of a complaints investigation, but also that operational managers are empowered to make organisational improvements as a direct result of those recommendations. While systemic improvement is not always a by-product of an upheld complaint, the Customer Relations Team is committed to

ensuring that remedies and learning are recorded, reported and monitored to completion.

Insight from complaints plays a key role in how we deliver the right outcome to our customers and assists the Council to continually improve our service delivery. To further empower managers to keep up to date with service performance, the Customer Relations Team have taken steps to improve the availability of performance statistics through formal reporting, and by continually developing and updating 'real time' management tools.

The Customer Relations Team and the Customer Experience Analyst maintained a Compliments and Complaints Dashboard in 2019, which allows the user to examine performance, in terms of numbers, timescales and outcomes, from Council-wide down to individual teams and from a number of years down to individual months. Although of particular interest to managers, this is open to all staff.

Work is also underway to benchmark our performance with statistical neighbours to ensure we are in a place where we know what 'good' looks like and to be able to measure our performance against other authorities.

All of this insight will feed into the Customer Relations Team's presentations to the Performance Board and the Senior Leadership Team meeting, helping to paint a full picture of why our customers complain and to have a framework in place that will help us continuously improve where we can avoid a complaint being made.

A programme of complaints training for Team Managers was rolled out in 2018 and is due to be repeated in 2020. The Complaints Manager and the Customer Relations Manager have revised and improved guidance for responding managers; this guidance is provided by the Customer Relations Team to all responding managers when complaints are allocated for response.

4 Service Commentary

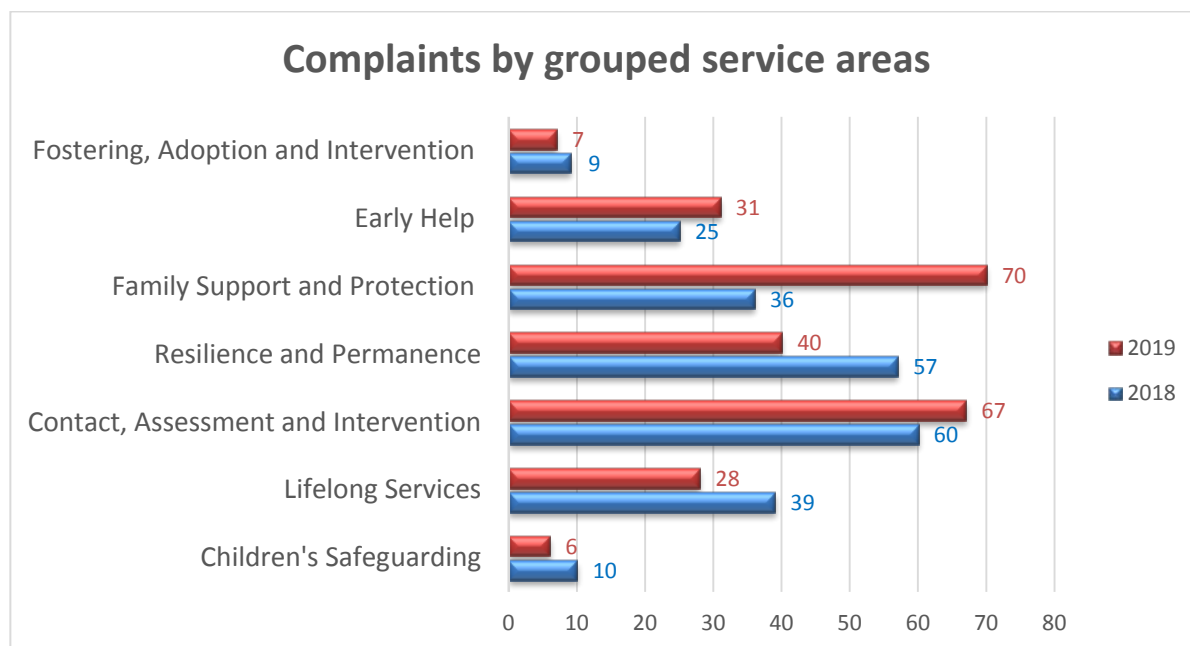
Children's Services	Stage One	Stage One Upheld	% Upheld	Stage One % within 10 days or notified extension	Stage Two	LGSCO	Compliments
2019	249	59	24%	74%	44	15	45
2018	236	63	27%	78%	29	17	127

Historically, Children's Social Care is one of the areas where the number of complaints is significantly higher than the number of compliments. The nature of the work undertaken by Children's Social Care in relation to ensuring the welfare of children and young people can be perceived to be intrusive by the families the Council works with. It is to be expected that the work Children's Social Care staff are obliged by statute to pursue creates an imbalance in the amount of complaints and compliments received in comparison to other areas of within the Council.

To understand the headline figure of 249 complaints recorded against Children's Social Care, it is necessary to drill down into the data, to add appropriate context.

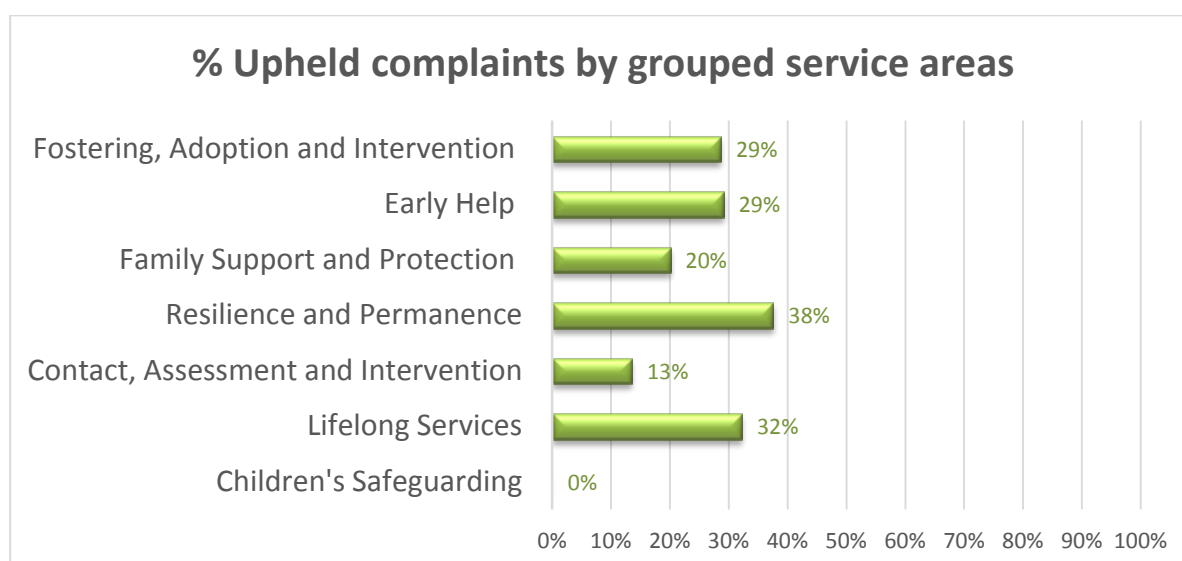
The table below shows a breakdown of complaints by grouped service for 2018 and 2019. One notable increase is the number of complaints recorded against Family

Support and Protection. The figure has almost doubled when compared with the number recorded in 2018 and represents 28% of the total complaints about Children's Social Care. Together with Contact, Assessment and Intervention, these grouped services account for over half of the reported complaints (55%)



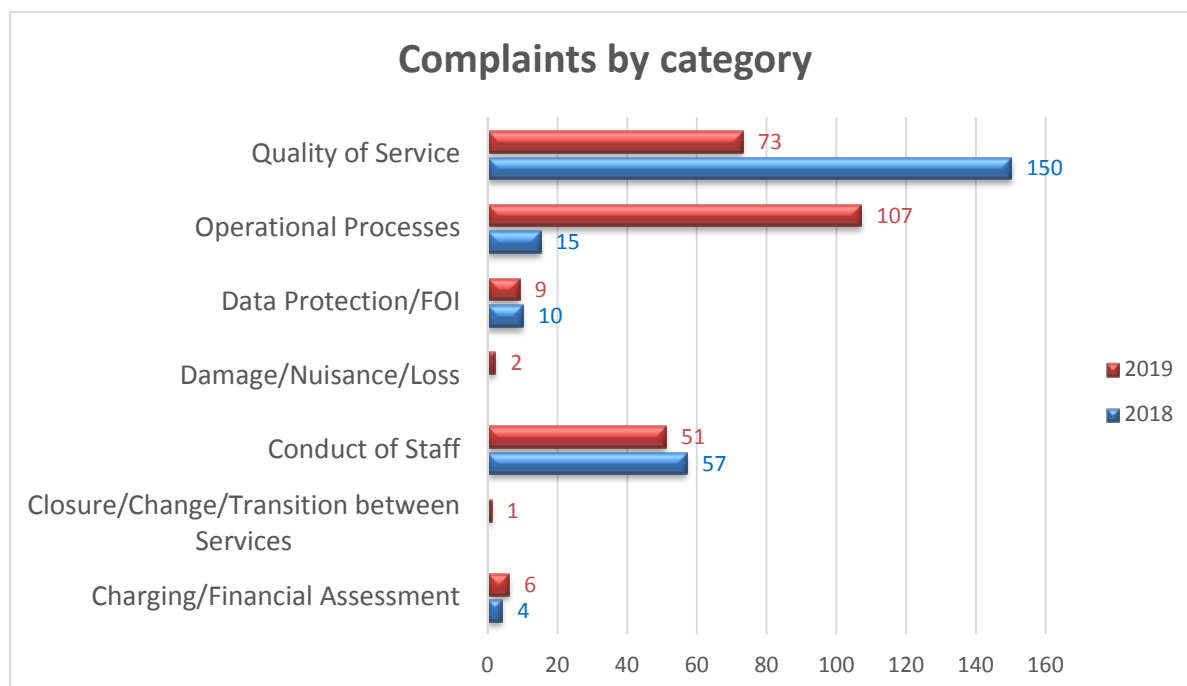
It has already been reported that the percentage of upheld complaints in Children's Social Care (24%) is slightly higher than the whole Council average of 22.2%. The graph below shows the upheld rates across the grouped service areas in 2019.

Resilience and Permanence has the highest recorded rate of upheld complaints, with Family Support and Protection recording a relatively low number of upheld complaints when considering the number of formal complaints logged (70).

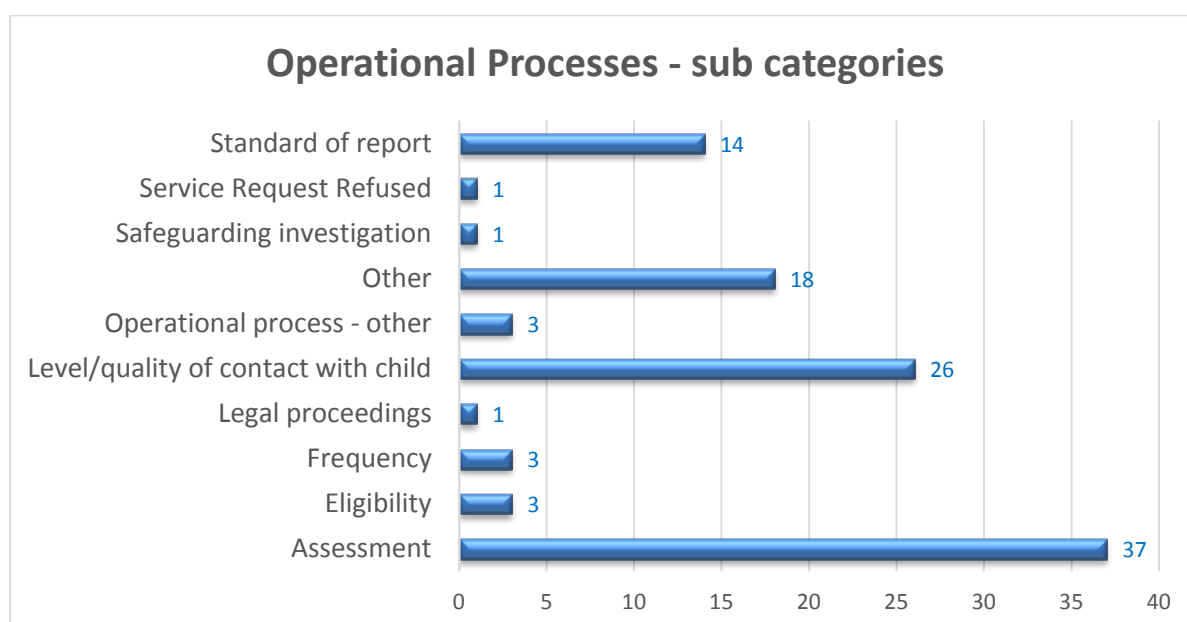


The graph below shows the category of complaints received about Children's Social Care. Complaints about social care provision are often complex and can include

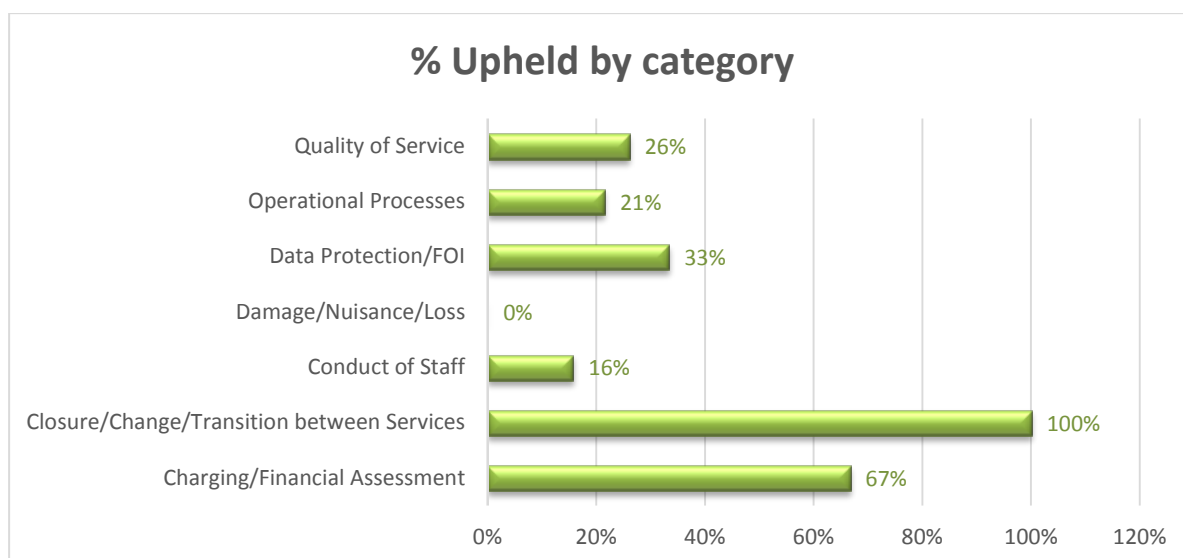
dissatisfaction about many elements of the service provided. For reporting purposes, the assigned category is a reflection of the salient or substantive issue complained about.



The category 'operational process' was broadened in 2019 to include sub-categories to enable management to better understand what areas of operational processes were the subject of complaints; the sub-categories are detailed in the graph below.



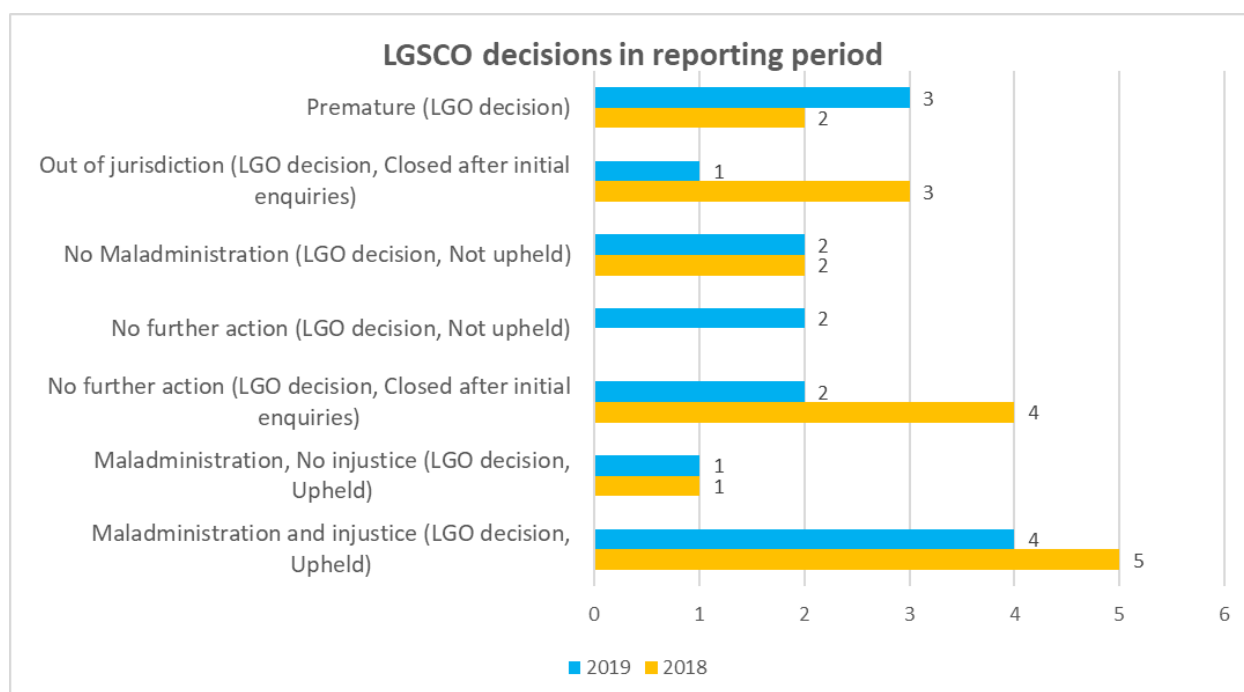
The graph below shows the percentage of complaints upheld in each category. The 100% recorded is the result of a very small data set, with the only complaint being logged against that category being upheld.



5 Local Government and Social Care Ombudsman

Once a customer has exhausted the Council's complaints procedures, they have the option to ask the Local Government and Social Care Ombudsman (LGSCO) to consider their complaint. This report focusses on the number of LGSCO decisions reached in the reporting period, as it is from these decisions that meaningful data and learning can be analysed.

The number of *decisions reached* by LGSCO decreased from 17 decisions recorded in 2018 to 15 decisions recorded in 2019.



The LGSCO has three different upheld categories:

- Upheld: Maladministration and injustice;
- Upheld: Maladministration, no injustice;

- Upheld: No further action

In 2019, the LGSCO returned an upheld decision on 5 of the 13 complaints considered; this represents a 33% upheld rate, which represents a slight increase in the percentage of upheld complaints recorded in 2018 (30%).

It is not possible to predict accurately how many complaints will be escalated to the LGSCO, as all complainants have the right to request their complaint is reviewed by the LGSCO.

Local resolution is key to improving the customer experience, and escalations to LGSCO will remain a focus for continual monitoring and review, as we try to resolve complaints for customers as quickly and simply as possible.

It is pleasing to note that the number of decisions reported has decreased in 2019

Details of these upheld complaints and associated learning are outlined below.

Upheld: Maladministration and Injustice

1. Assessment and Intervention

The complaint was considered as a representation under the corporate complaints procedures. In line with that process, the matter was escalated directly to LGSCO following the issue of the formal Council response.

Mr X complained that the Council disclosed his confidential information without consent. The Ombudsman did not find fault with the Council's decision to disclose the information. However, they did find fault in the way the Council set out its rationale and for not telling Mr X it would disclose the information.

The Council acted on a S47 but failed to check:

- *Whether it should get Mr X's consent before sharing the information;*
- *Whether doing so would create or increase risk of harm;*
- *Whether telling Mr X that it had shared the information without his consent would create or increase risk of harm*

These actions were not compliant with the *Working Together to Safeguard Children* guidance and Council policies.

The Council was found to be at fault because it did not clearly document its lawful basis for disclosing the information without Mr X's consent. It did not tell Mr X that it had, or was going to, disclose the information, or evidenced why doing so would create or increase risk of harm.

Learning Completed

- Management to remind staff of the process to be followed in all disclosure strategy meetings and to ensure that decisions made are clearly documented in the minutes/social care record;

- Council to inform all Practice Managers of the outcome of the complaint and the findings;

The remedy was formally recorded as 'completed' by the LGSCO. An apology letter was sent to Mr. X explaining the rationale for sharing the information without his consent.

2. Children's Safeguarding – LADO (Local Authority Designated Officer)

A stage two complaints investigation was undertaken by the Head of Safeguarding. The matter was referred to the LGSCO by the complainant and the outcome of the stage two complaint was overturned.

Mr Y complained on behalf of his daughter about the way the Council dealt with an allegation against her. The LGSCO found that the Council was at fault in the way it decided the outcome of the allegation. The Council agreed to carry out a review of the evidence and the decision.

The LGSCO found fault in the LADO recording the decision before the outcome of the employer's investigation was made clear. In short, the LADO made a finding on the allegation in the absence of an investigation. The Council decided early in the process what the outcome of their investigation would be. The complainant's record shows the allegation to have been substantiated by the Council and this was felt to represent injustice.

The LADO actions were not compliant with the *Working Together to Safeguard Children guidance*

Learning Completed

- Principal Safeguarding Lead role appointment made to provide regular tracking of progress on individual cases;
- LADO reminded of the possibility to peer review cases with the Assistant LADO.

Remedy

The Council agreed to carry out a full review of the evidence about the allegation.

The LGSCO wrote to the Council to confirm the remedy actions had been completed.

3. Looked After Children

The complaint was considered at stage two of the corporate complaints procedure and was escalated to the LGSCO by the complainant.

Ms Z, who was a child in the Council's care, complained that the Council was at fault for offering to fund her accommodation at university only if she lived with her former foster family from whom she was estranged. The LGSCO found that the Council was at fault. The LGSCO found that the Council could not effectively insist

that Ms Z continue to live with the foster family against her will. This fault represented an injustice.

The Council was reminded of its duty to provide accommodation for Ms. Z while she was studying.

Learning Completed

No operational learning was completed as a result of this complaint.

Remedy

A small financial remedy was imposed, to be provided alongside a formal apology from the Looked After Children Service. The Council was instructed to fund alternative accommodation for Ms. Z.

The LGSCO wrote to the Council to confirm the remedy actions had been completed.

4. Lifelong Services

Mr. H complained that the Council had failed to provide him and his daughter with the support they needed.

The LGSCO made the unusual finding of 'Upheld: Maladministration and Injustice – No Further Action' despite the final decision concluding that *'the evidence does not support the claim that the Council's actions have caused injustice'*.

The finding is formally recorded as 'Upheld: Maladministration and Injustice' by the LGSCO, which is why it is included in this report.

Learning

Mr. H turned down the Council's initial offers of additional support and the Council took no further action to arrange such support before updating Mr H's daughter's care plan.

This isolated issue was discussed in team meetings and in individual supervision sessions with the social worker.

Remedy

The LGSCO considered no appropriate remedy was applicable.

Upheld: Maladministration, No Injustice

5. Looked After Children and Customer Relations

Mr. B complained that the Council did not support him adequately as he moved out of care and this led him to make poor life choices. Mr. B complained that the Council gave him too little support in his career. The Council was not at fault as it gave Mr. B advice but could not make him take it. However, the LGSCO found fault

for a failure to use the statutory complaints process for Mr. B's complaint but this fault caused him no injustice.

Learning Completed

The Customer Relations Team was reminded of the importance of considering the eligibility of complainants when applying the appropriate complaints procedure.

Remedy

No remedy was set by the LGSCO.

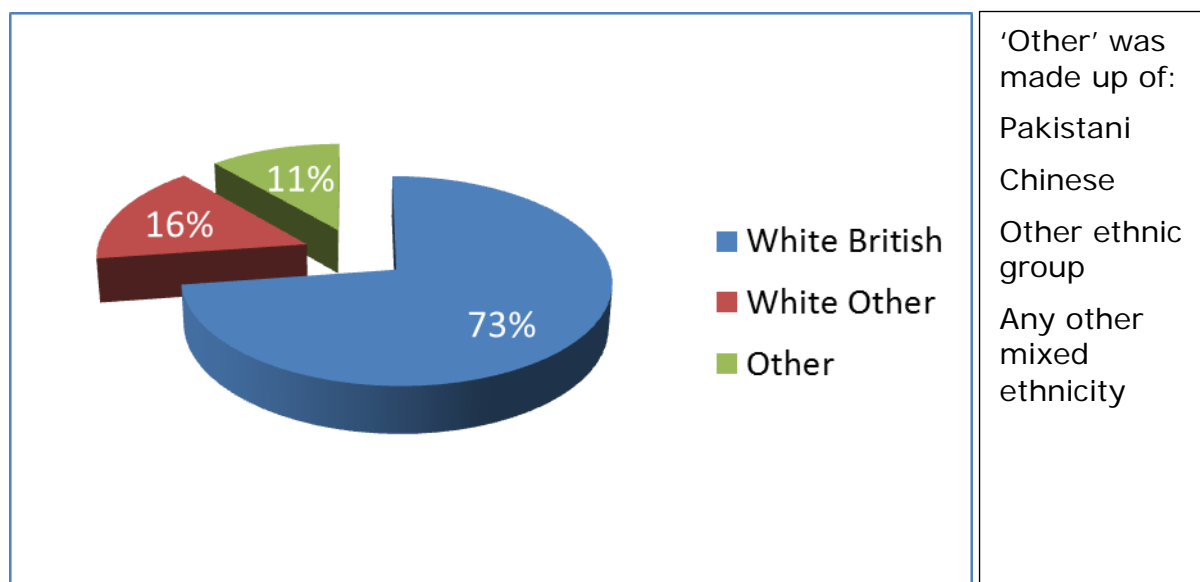
In all five of the cases where fault was identified, the LGSCO and the Council agreed a suitable remedy, usually an apology or a review of decision. Any financial remedies resulting from an LGSCO investigation are set out in the synopsis in section 2.2.

An anonymised list of cases considered by the LGSCO is available from the Complaints Manager David.Tominey@westsussex.gov.uk; all anonymised decision reports are held on file and accessible on request.

6 Equalities Monitoring

The process for monitoring complaints by age, sex, race, disability, religion or belief, and gender reassignment has historically produced insufficient data to form any realistic judgement as to the effectiveness of the procedure for individual groups.

Ethnicity was recorded for 44 complainants, with the following outcome:

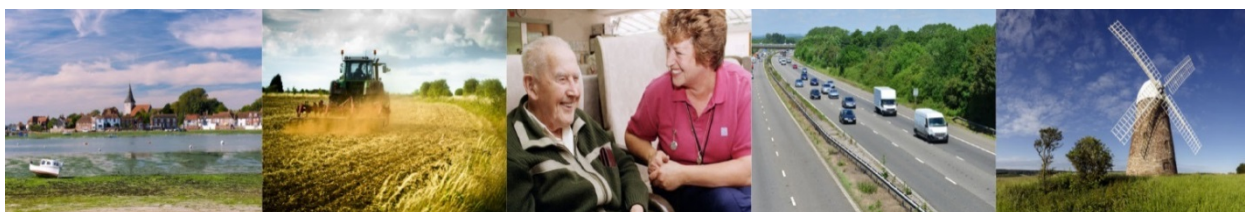


Throughout 2019 all complainants were surveyed regarding their customer experience of the complaints process. That survey also requested equality data. Of 32 complainants who completed the survey, 28 (87.5%) said that they were White British, 1 (3.1%) defined as 'Black' and 1 (3.1%) as 'White Other'. Two respondents

chose not to answer. All the respondents in the survey were over 20. Of the 31 who gave their gender, 19 (61.3%) defined as Female and 12 (38.7%) as Male.



Corporate Annual Report: Compliments and Complaints 2019



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Executive Summary

This is the 2019 annual report for compliments and complaints received in relation to the corporate functions provided by the County Council. The report focusses on the areas of business that generate most customer contact, namely Highways, Transport & Planning; Education & Skills; and Environment & Public Protection. However, the report also includes details of compliments and complaints received by other service areas such as Communities; Law & Assurance; Property & Assets; Finance & Procurement; HR & Organisational Change; and the Fire Service.

For ease of reference in this report, where these areas are mentioned as a group, they are referred to as the Council's 'corporate functions'.

The report covers the period 1st January 2019 to 31st December 2019.

Historically, the County Council has produced a broad 'whole Council' annual report, but this year a decision was made to produce separate reports for both Children's and Adults' Social Care as well as this report, to enable the Council to produce a more focussed review of complaints received in respect of our service delivery to our most vulnerable customers.

The purpose of this report is to review the operation of the complaints process over a 12 month period, including statistical data, and to provide the local authority with the means by which it keeps itself informed about complaint themes and how effective its current arrangements are for handling customer complaints.

This report also provides information for decisions issued by the Local Government and Social Care Ombudsman (LGSCO) in 2019, as well as compliments recorded by the Council.

The Council's definition of a complaint is:

"A complaint is an expression of dissatisfaction, however made, about the standards of service, actions or lack of action by the County Council or its staff, affecting an individual customer or group of customers"

The Council's corporate complaints process is used to manage complaints that fall outside of the remit of the statutory complaints procedures in place for managing Children's and Adults' social care complaints:

"The Corporate Procedure will not be used for matters which should be dealt with using other procedures, such as; the statutory complaints procedures for Adult Social Care and for Children's Social Care; personnel procedures such as grievance or disciplinary procedures; appeals; or other alternative procedures".

Full details of the corporate complaints procedure can be found on the Council's website, but put simply; the Council's aim is to resolve complaints for our customers as quickly and simply as possible. For this reason, the initial stage is dealt with by the manager responsible for the service, with an emphasis on trying to reach a resolution. If that resolution is not reached, the customer has the right to escalate matters to the next stage, where the complaint is reviewed by the Complaints Manager. The investigation report is then approved and issued by the Chief Executive.

The Customer Relations Team, which is part of the Customer Experience Service, is the central team supporting customers and staff to ensure that making a complaint is as easy as possible for all concerned. The team consists of:

David Tominey, Complaints Manager, and four Customer Relations Officers.

The team can be contacted by emailing feedback@westsussex.gov.uk or by calling 033 022 28222

1 The overall picture

Complaints recorded against all corporate functions from 1st January 2019 to 31st December 2019.

The table below shows the reasons recorded for complaints during 2019 in comparison with 2018 and 2017.

Complaint Nature	2017	2018	2019
Charging/Financial Assessment	5	4	6
Charging/Financial Assessment	5	4	6
Conduct of Staff	32	27	82
Behaviour	29	23	67
Competence	2	3	10
Failure Demand	1	1	4
Conduct of staff - Failure demand			1
Damage/Nuisance/Loss	5	12	51
Damage/Nuisance/Loss	5	12	51
Data Protection/FOI	2	12	1
Breach of Confidentiality	2	12	1
Operational Processes	12	19	137
Assessment	6	3	20
Eligibility	3	7	24
Service Request Refused	1		20
Other	2	7	26
Frequency		2	
Level/quality of contact with child			2
Standard of report			1
Consultation Process			28
Operational process - other			16
Quality of Service	189	233	126
Communication with service - Avoidable Contact	17	4	
Delays	14	19	37
Delivery	145	185	
Discrimination	2	5	5
External service Quality Alert			19
Communication with service - Failure Demand	6	7	26
Communication with service - Other	5	13	39
Use of recycling site	71	68	5
Use of recycling site	71	68	5
Waste Management policies and procedures	9	38	3
Waste Management policies and procedures	9	38	3
Level of general service to residents	0	0	4
Level of general service to residents			4
Not WSCC			
Not WSCC	0	1	0
Grand Total	325	414	415

Explanatory notes:

1. *Figures in bold are the headline figures for a complaint category. Where a breakdown is available, the figures are shown immediately below.*

2. *The categories of 'avoidable contact' and 'failure demand' taken together describe complaints arising from situations which were avoidable if the Council was easier to contact, or where contact had been promised but was that promise was not kept. These two categories have now been combined to avoid confusion.*

The table below summarises the complaints and compliments recorded by all directorates or service units in 2019, highlighting how the Council's corporate functions compare against annual statistics for the rest of the Council. The numbers for the LGSCO reflect the number of *decisions received* in the reporting period.

Complaints by Directorate 2019	Stage One	Stage One Upheld	% Upheld	Stage One % within 10 days or notified extension	Stage Two	LGSCO decisions received	Compliments
Adults and Health							
Adult Services	190	44	23%	82%	34	35	244
Social Care Joint Commissioning	3	1	33%	67%	0	0	2
Children Young People and Learning							
Education and Skills	48	7	15%	83%	8	6	114
Children Services	249	59	24%	74%	44	16	45
Place Services							
Communities	19	11	58%	84%	1	2	4744
Environment and Public Protection	107	26	24%	64%	4	2	195
Highways, Transport and Planning	201	33	16%	85%	23	20	127
Resource Services							
Law and Assurance	5	3	60%	80%	1	2	1
Property and Assets	2	0	0%	100%	1	0	0
Finance, Procurement and Business Support	22	5	23%	86%	4	1	23
Fire Service							
Fire Service	4	2	50%	75%	0	0	28
Chief Exec's Office							
Chief Exec's Office	1	0	0%	100%	0	0	2
HR and Organisational Change							
HR and Organisational Change	3	0	0%	100%	0	2	1
Grand Total Complaints	854	191	22%	78%	120	86	5526

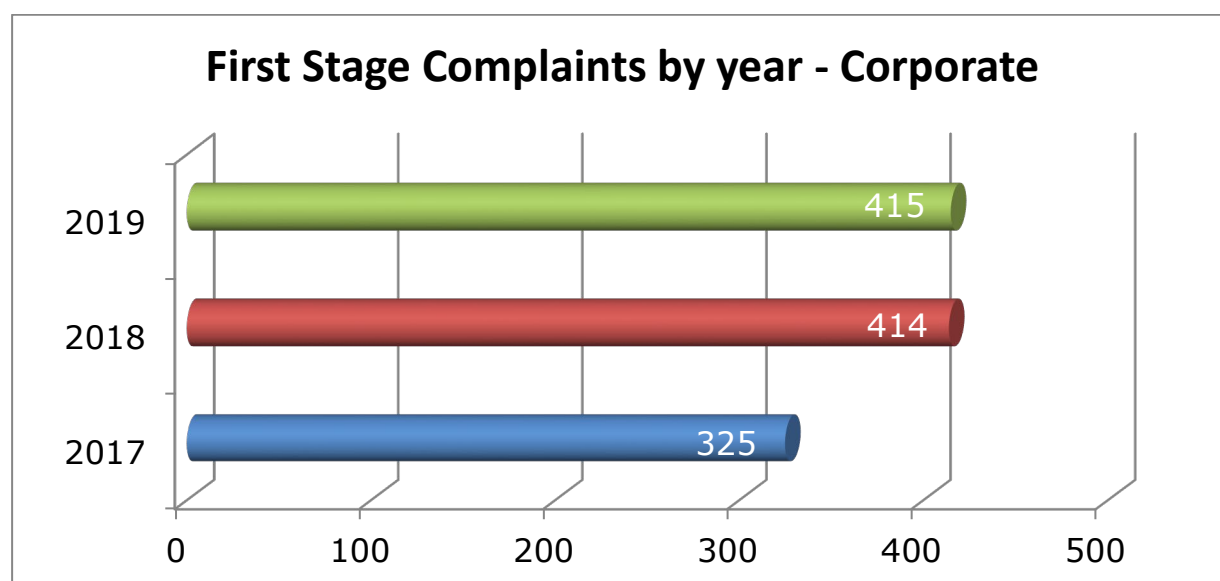
This table shows the year on year comparison of complaints traffic across the Council's corporate functions.

Complaints by Directorate	2017	2018	2019
Not WSCC			
Not WSCC	0	1	0
Discontinued			
Music Service (Discontinued)	1	0	0
Place Services			
Communities	25	18	19
Environment and Public Protection	83	109	107
Highways, Transport and Planning	138	194	201
Resource Services			
Law and Assurance	8	20	5
Property and Assets	7	4	2
Finance, Procurement and Business Support	18	16	22
Fire Service			
Fire Service	6	7	4
Chief Exec's Office			
Chief Exec's Office	0	1	1
HR and Organisational Change			
HR and Organisational Change	1	7	3
Adults and Health			
Social Care Joint Commissioning	0	2	3
Children Young People and Learning			
Education and Skills	38	35	48
Grand Total Complaints	325	414	415

2 Analysis of overall figures

2.1 Stage One Complaints

The number of complaints recorded at the first stage increased from 414 in 2018 to 415 in 2019. This represents an increase of 0.25% in formal complaints received compared to the figure recorded in 2018.



It is difficult to say with any degree of certainty what the reasons are for the volume of complaints traffic, but it is possible to comment on potential contributing factors.

The Council advertises the complaints process clearly and the Customer Experience Service has been instrumental in assessing the accessibility of the complaints service to all of our customers in 2019. The improved accessibility for our customers is intended to provide our customers with a platform from which to voice their dissatisfaction with services provided.

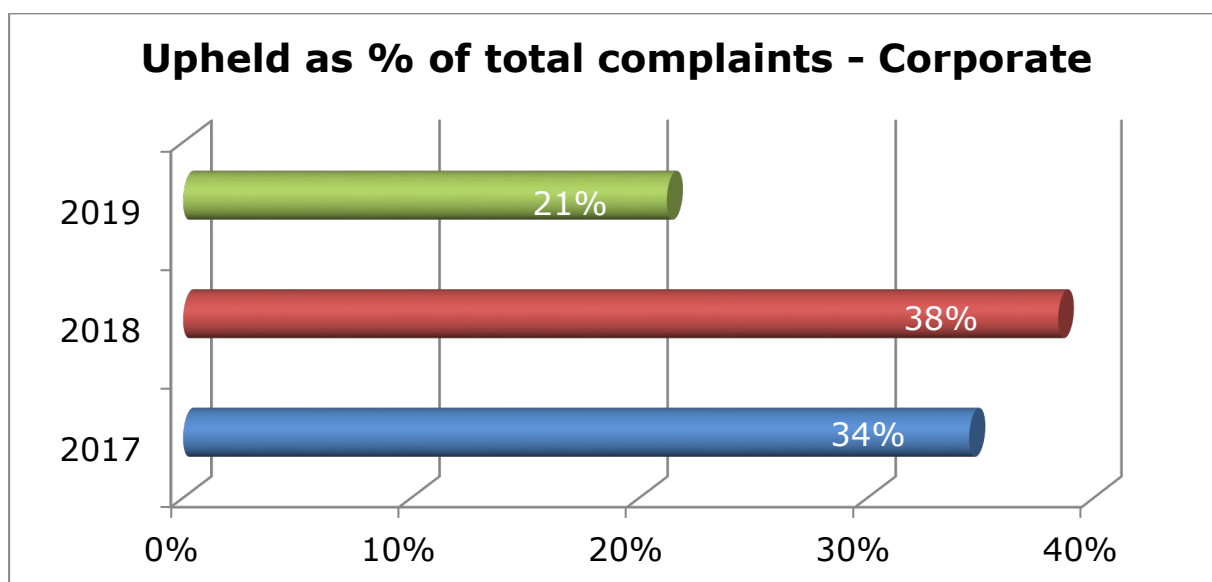
The number of formal complaints received by the Council is a fraction of one percent in proportion to the total transactions with service users and the public. If taken as a percentage of calls to the Customer Service Centre it would only be 0.2%, however there are many more customer contacts through other channels.

This comment in no way infers that the Council simply accepts the level of complaints we have received. We want to avoid any customer needing to complain, but also regard every complaint as an opportunity to learn and to implement changes that will avoid future complaints being made, improving our customers' experience and in turn our customers' satisfaction levels with the Council.

There was a very slight increase in complaints received in relation to the Council's corporate functions in 2019 but the number remained stable with that recorded in 2018. The number of complaints upheld at the first stage decreased from 38% in 2018 to 21% in 2019. This includes complaints that were 'partially upheld'.

The percentage of upheld complaints has decreased significantly from those reported in 2017 and 2018.

The percentage of complaints upheld in the Council's corporate functions (21%) is slightly lower than the whole Council average of 22%.



2.2 Stage Two Complaints

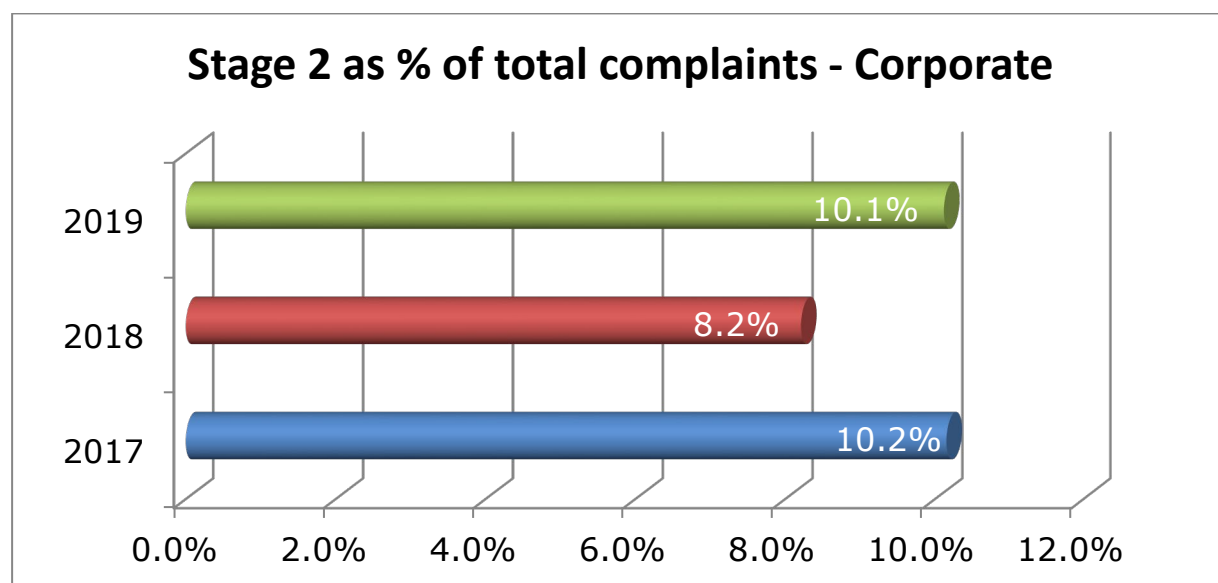
If a complainant is not satisfied with the response at the initial stage, they have the right to escalate their complaint for consideration at a more senior level.

Stage two is a review for the Chief Executive, usually carried out by an officer independent of the service being complained about. If a review of a professional

judgment is required, this may have to be carried out by a suitably qualified manager within the service. A report and recommendations are produced. These are shared with the relevant Executive Director before being passed to the Chief Executive. The Chief Executive issues a formal response to the complainant. The target timescale for this stage is twenty working days.

The number of complaints relating to the Council's corporate functions considered at stage two of the Council's complaints procedure rose from 34 in 2018 to 42 in 2019; a 23.5% increase.

The number of complaints considered at stage two represents 10% of the total number of complaints received at stage one in 2019, compared with 8% of the total in 2018. The 10% recorded shows a return to the figure reported in 2017.



The Customer Relations Team has continued to ensure that responding managers are using templates which explicitly advise complainants of their right to escalate.

It is important that complainants are provided with clear instructions on how to pursue their complaints through the appropriate channels. This transparent approach is applied across the whole Council and is indicative of the integrity employed when managing the complaints process.

It is likely that including escalation advice with every stage one response contributes to the number of complaints that are escalated, but the Council is committed to ensuring that the complaints process is transparent and that customers are empowered to seek review of stage one decisions in line with their statutory rights.

The Customer Relations Team reviewed the quality of responses at the early stages of the complaints procedures and a decision was made during 2019 that all responses to stage one complaints would be subject to quality assurance by the Customer Relations Team prior to the response being issued.

Of the 42 stage two complaints investigated, only 3 (7%) have been found to be upheld in full or in part. Details of the operational learning and insight gained from those complaints investigations are listed below.

Upheld in Full

Highways Transport & Planning

A complaint was made that delays by the Council were preventing a young person's family from making long-term arrangements for travel to and from school.

The complaint was upheld at stage one of the complaints process, but continued delays prompted the customer to escalate the matter for consideration at stage two of the process.

It was accepted that delays in identifying suitable escorts for the young person were unacceptable and the complaint was upheld. The Council had implemented a short-term solution and planned to make that permanent, with the customer's agreement.

Upheld in Part

Highways Transport & Planning

A customer complained that her repeated complaints made to the Council in relation to the surface of a named road had resulted in no action being taken.

Evidence supported the fact that, although the customers approaches to the Council over two years had all been processed and acted upon, the Council had not communicated this to her consistently.

Highways Transport & Planning

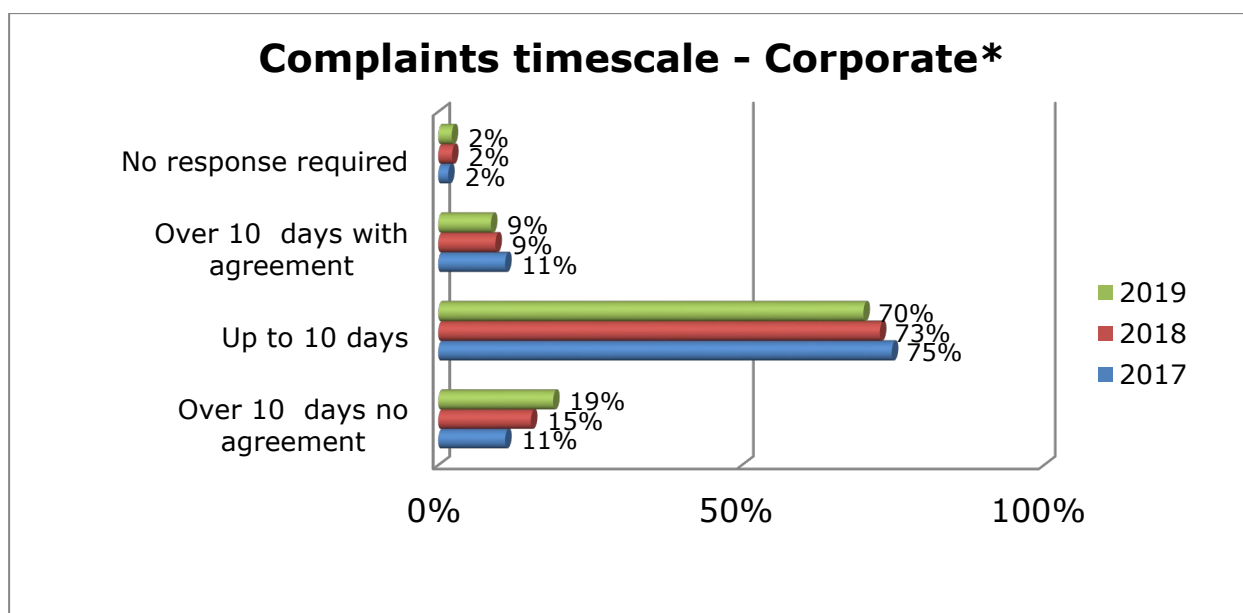
A group of residents complained about the Council's allocation of money to a parish council to undertake construction of a link road and an associated footpath project.

A minor deficiency in the process was identified retrospectively as the matter had already been addressed and the Council had already put an appropriate protocol in place; for that reason the complaint was found to be upheld in part.

2.3 Performance

The Council's guidance on managing corporate complaints makes clear the expectation of staff responding to a formal complaint at stage one of the complaints procedures:

The target timescale for response at stage one is up to ten working days from the date of receipt of the complaint, with a maximum of twenty working days.



**Excludes Waste complaints in 2017 & 2018 where complaints were recorded separately and timescales are not available*

In 2019, 81% of stage one complaint responses were issued within timescales or within an extended timescale. This figure is slightly lower than that recorded in 2018 (85%) and is representative of a slight decline in performance year on year.

The timeliness of complaint responses is of huge importance across all Council services and is an element of complaints management the Customer Relations Team is constantly reviewing.

The Complaints Manager sought to address the timeliness of complaints responses, introducing a reporting tool with a RAG (red, amber, green) warning system for managing all open complaints. This is cascaded to all senior managers within the Council on a weekly basis.

The Customer Relations Team introduced a new complaints system (Infreemation) on 1st November 2019 to facilitate all complaints received within the Council. Infreemation provides responding managers with daily and weekly reports reminding staff of outstanding casework and impending deadlines. The RAG reports remain in place and are sent automatically to senior managers via Infreemation.

Responding to corporate complaints within the specified timescale is an obligation the Council takes very seriously, and continued improvement on the performance reported in 2019 is an absolute priority. The Customer Relations Team will continue to work closely with services to ensure management has oversight of complaints casework and is provided with support throughout the process.

A further priority is to ensure that the *quality* of stage one complaint responses are of a standard that drives down avoidable escalation. It is accepted that complainants have a right to escalate complaints if they disagree with the outcome of the stage one investigation, and that the Council can have little control over this. However, by ensuring that all elements of complaints are considered fairly and thoroughly, the Council can work towards reducing unnecessary escalation. Robust quality assurance of stage one responses is now one of the core responsibilities of

the Customer Relations Officers to ensure that all responses are of the expected standard and are fair and accurate in their findings.

2.4 Financial remedies

The complaints process is not designed to facilitate compensation payments. The Council will sometimes offer goodwill gestures, or ex-gratia payments in recognition of identified fault, but this is in itself quite rare. The local Government and Social Care Ombudsman (LGSCO) has published guidance on remedies for complaints scenarios, and this guidance is used when payments are considered as a result of a complaint being upheld.

Financial remedy payments are not 'compensation' but they are a method recommended by the LGSCO for resolving complaints where the Council has been found to be at fault and is unable to resolve the situation in another way. The volume of complaints considered by the Council covers a range of issues raised by customers, which means that it will always be hard to predict what overall levels of financial remedy are likely to be offered by the Council.

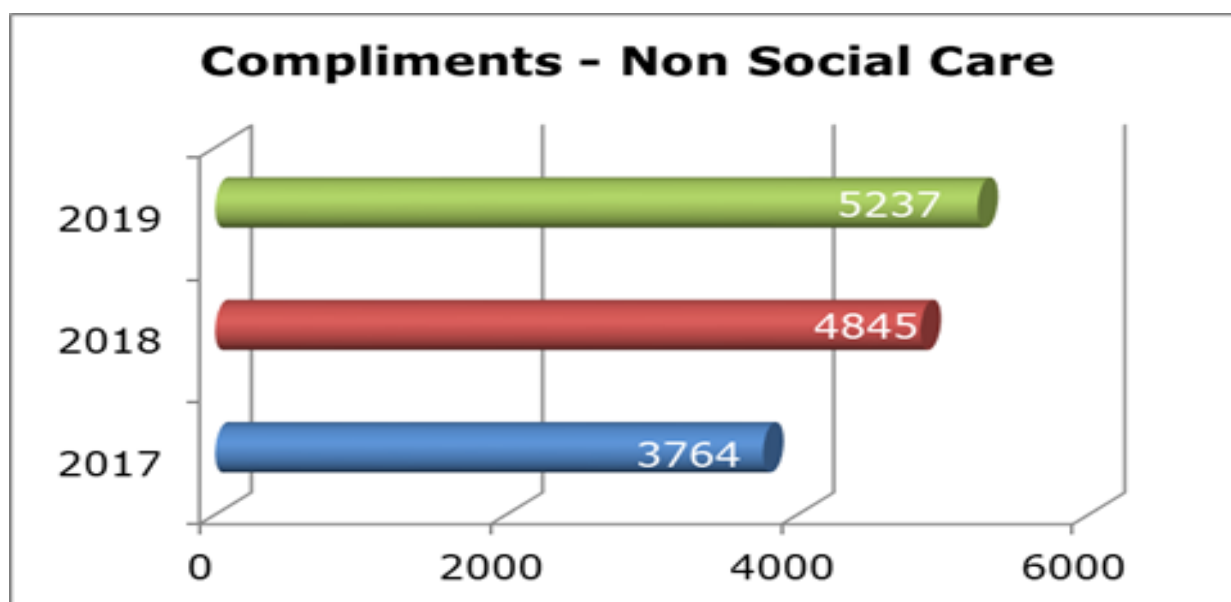
There were no recorded payments made as a result of a complaints investigation outside of social care in 2019.

2.5 Compliments

When a customer is so satisfied with the service they have received that they make a special mention of it, the Council records this as a compliment.

The number of formal compliments received by the corporate functions remains very high when compared with other directorates; this is due in no small part to the large number of compliments received by Libraries. The summer reading challenge is a consistently popular event with customers and results in thousands of compliments year on year. The 4744 compliments recorded against the Communities directorate in which Libraries sit make up 86% of the total compliments received by the Council as a whole.

It is pleasing to note that both Environment & Public Protection and the Fire Service have received many more compliments than complaints in 2019.



The number of compliments received in the corporate space has risen for the third year in a row to 5237. Included in this figure is the number of compliments received relating to Library Services and their Summer Reading Challenge. 2028 compliments were received in response to the Summer Reading Challenge in which over 10,000 children take part.

It is hoped that the levels of recorded compliments received remains high in 2020 but it is likely that the impact of Covid-19 and the temporary closure of settings will affect the numbers recorded.

The Customer Relations Team is committed to ensuring staff across the Council are recognised for the good work they do and that as many compliments as possible are recorded. The Customer Relations Team has been proactive in reminding senior managers of the requirement and importance of ensuring all formal compliments are presented for formal recording.

Compliments are important when helping our organisation understand what 'good' looks like and to celebrate our successes, supporting the staff recognition platform and helping our organisation live and breathe our customer centre value.

Some examples of the compliments received by the Council's corporate functions staff in 2019 are listed below:

Highways - Mid Sussex

"I understand that you are responsible or partly responsible for the outside dining areas that have been made in East Grinstead along the High Street. What a genius idea, not only has it helped the businesses along there but the community of East Grinstead has benefitted.

In what had been a horrible year, with holidays cancelled etc. Sitting out on the street with a drink or a meal, has been just lovely. I hope this becomes a regular occurrence"

Highways - Adur

"I sent you a message regarding the state of the pavements in and around Dingley Road in Rustington. This morning a very pleasant gentleman from the Highways department came to my house and informed me that he was carrying out a survey of the pavements and indicated that there were certain areas that needed attention.

I would just like to say thank you to both the Highways department for a very quick response to my query, and to the engineer who came to the house. Well done to all concerned"

Special Educational Needs (Post-16)

"Thank you for attending, supporting and fielding questions to families tonight and providing a great reassurance to them.

I thought these were productive and supportive.

This is much appreciated"

Special Educational Needs (South)

"I hope your temporary contract is extended or made permanent – your skills, reflectiveness and ability to work with complex situation keeping everyone together are rare. I should imagine the job is taking its toll though...Fingers crossed!"

Driver Training

"Hi just finished my course Julia that hosted. She was very easy to listen to also made the course seem not so much as a punishment but as a learning curve"

Fire and Rescue Service

"I just wanted to say a massive thank you for attending my son yesterday.

We are very grateful for your help and my son would like to attend the station later (if possible) as he wanted to say thank you"

3 Complaints delivering insight to action

Within the Customer Experience space we have a number of corporate measures which will help us focus on improving the service we provide our customers:

- *Level of Satisfaction with the services received by our residents;*
- *Residents finding it easy to access information service and support they need;*
- *Freedom of information requests responded to within time;*
- *The County Council response to recommendations from customer complaints.*

Insight from complaints plays a key role in how we deliver the right outcome to our customers and in continually improving our service delivery. To achieve this there has been much activity within the way we collate and learn from our customer complaints. The Customer Experience team improved the way we report to senior

managers with the continued development of the Compliments and Complaints Dashboard which informed improved reporting and learning from complaints, locally and across the Council.

2019 marked a departure from the previously established Working Together Focus Group, which was established in the summer of 2017 to consider operational learning and service improvement identified in the analysis of complaints received across the Council.

The effectiveness of these quarterly whole Council meetings was reviewed in 2019 and a decision was made to present updates on complaints and organisational learning to already established focus groups.

The focus remains on ensuring that our customers benefit from the recommendations made as a result of a complaints investigation, but also that operational managers are empowered to make organisational improvements as a direct result of those recommendations. While systemic improvement is not always a by-product of an upheld complaint, the Customer Relations Team is committed to ensuring that remedies and learning are recorded, reported and monitored to completion.

Insight from complaints plays a key role in how we deliver the right outcome to our customers and assists the Council to continually improve our service delivery. To further empower managers to keep up to date with service performance, the Customer Relations Team have taken steps to improve the availability of performance statistics through formal reporting, and by continually developing and updating 'real time' management tools.

The Customer Relations Team and the Customer Experience Analyst maintained a Compliments and Complaints Dashboard in 2019, which allows the user to examine performance, in terms of numbers, timescales and outcomes, from Council-wide down to individual teams and from a number of years down to individual months. Although of particular interest to managers, this is open to all staff.

Work is also underway to benchmark our performance with statistical neighbours to ensure we are in a place where we know what 'good' looks like and to be able to measure our performance against other authorities.

All of this insight will feed into the Customer Relations Team's presentations to the Performance Board and the Senior Leadership Team meeting, helping to paint a full picture of why our customers complain and to have a framework in place that will help us continuously improve where we can avoid a complaint being made.

A programme of complaints training for Team Managers was rolled out in 2018 and is due to be repeated in 2020. The Complaints Manager and the Customer Relations Manager have revised and improved guidance for responding managers; this guidance is provided by the Customer Relations Team to all responding managers when complaints are allocated for response.

4 Service Commentary

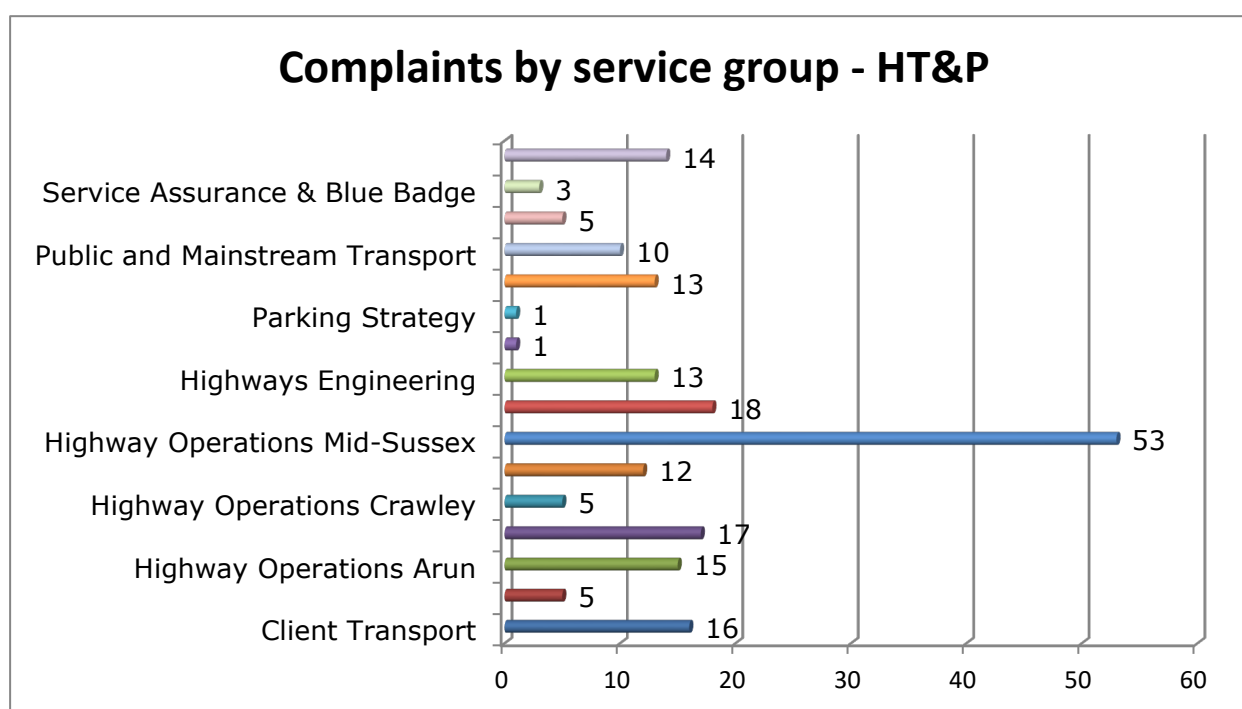
Highways, Transport & Planning

Highways, Transport and Planning	Stage One	Stage One Upheld	% upheld	Stage One % within 10 days or notified extension	Stage Two	LGSCO	Compliments
2019	201	33	16%	85%	23	20	127
2018	194	51	26%	82%	18	15	121

Highways, Transport & Planning is, historically, one of the three main service delivery groups that report the highest number of complaints, the other two being Adults' and Children's social care.

To understand the headline figure of 201 complaints recorded against Highways, Transport & Planning, it is necessary to drill down into the data, to add appropriate context.

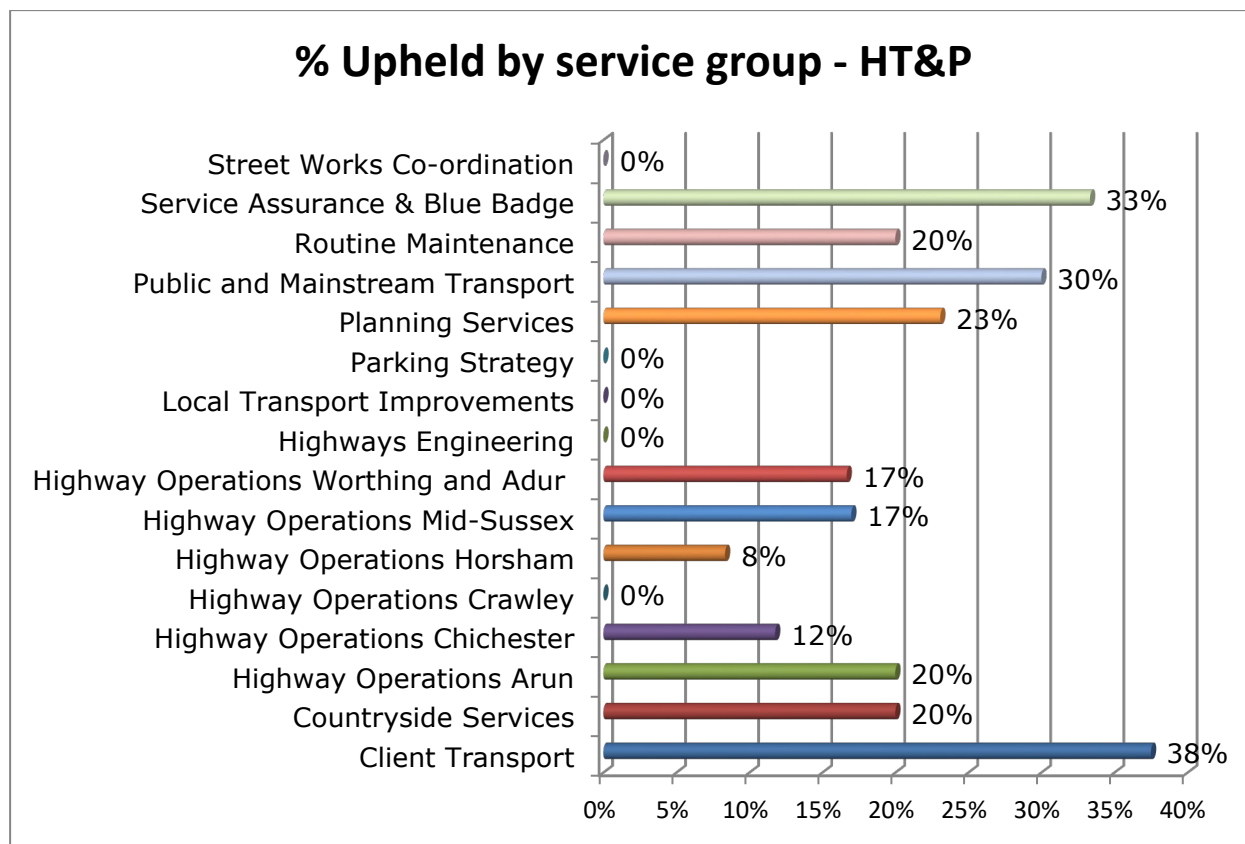
The table below shows a breakdown of complaints by grouped service areas for 2019. The table is useful to provide an overview of the complaints received across the service areas, including the geographical operational areas.



It has already been reported that the percentage of upheld complaints in Highways, Transport & Planning (21%) is slightly lower than the whole Council average of 22.2%. The graph below shows the upheld rates across the grouped service areas in 2019. The very small data set for Blue Badge results in a relatively high, stand out percentage of upheld complaints.

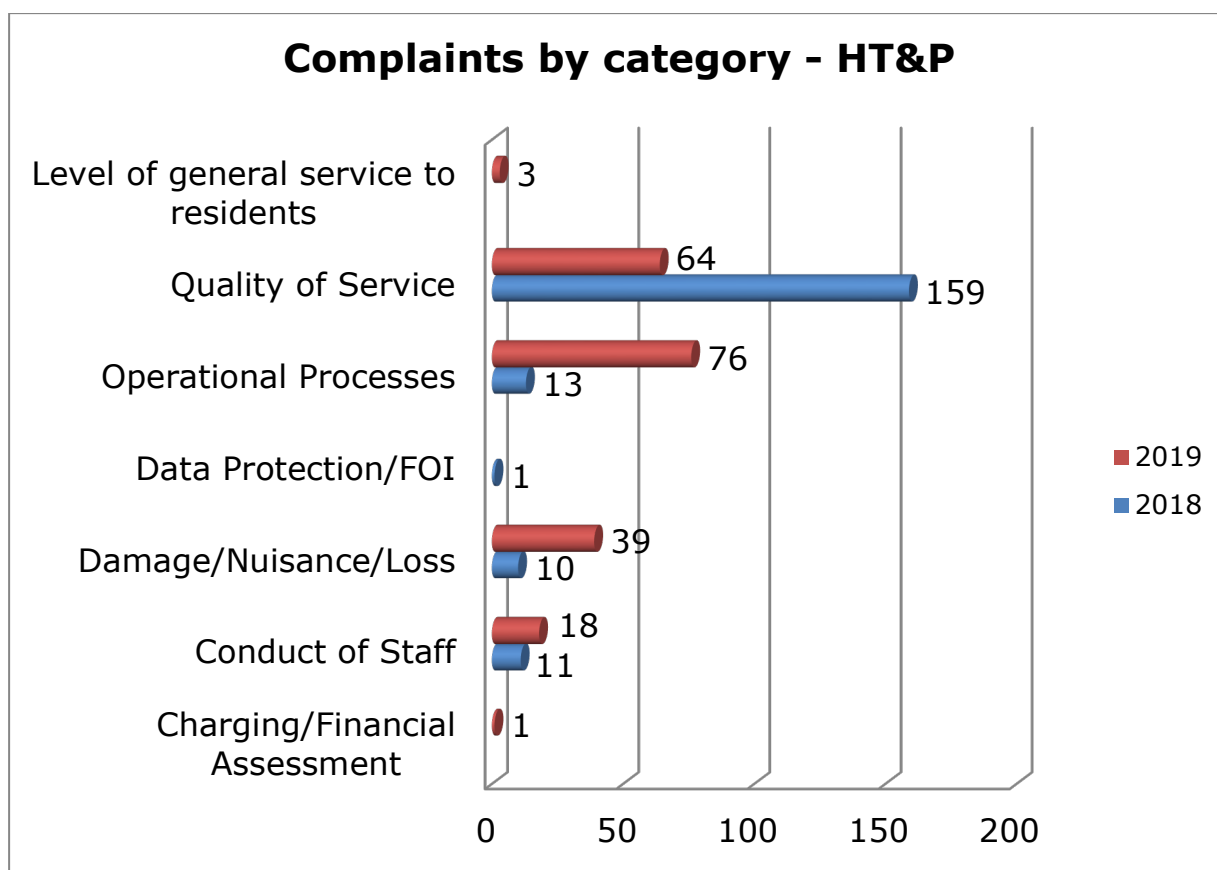
It is interesting to note the disparity between the number of complaints received by Highways Mid-Sussex (53) and the number of complaints upheld (9 complaints, or 17%). To add context to these figures, of the 53 complaints, 29 related to highway works; the condition of the highway; or decisions not to revisit identified areas of highway for repair.

The remaining complaints related to isolated issues, and do not indicate an identifiable trend in identified fault in Highways Mid-Sussex service provision.

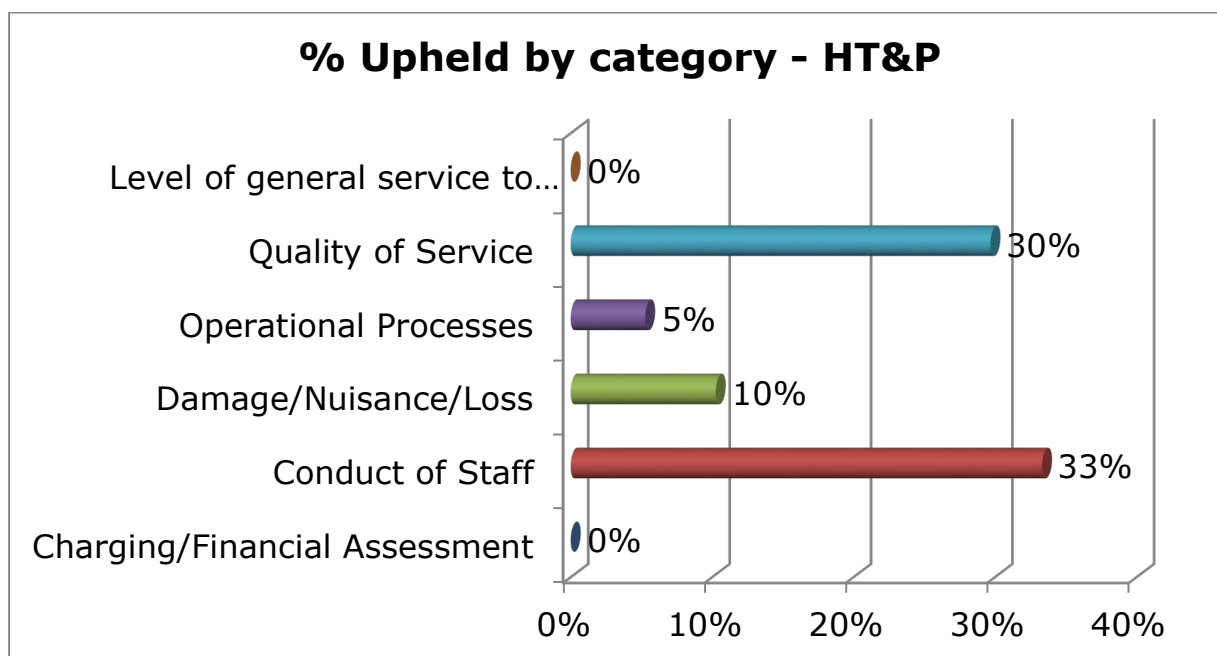


The Customer Relations Team is committed to ensuring complaints investigations are robust and provide the customer with an honest review of the situation, with suitable remedies applied where applicable. The broad spectrum of services provided by Highways, Transport & Planning, and the large number of residents affected by operational decisions means that expressions of dissatisfaction are to be expected. How the Council responds and learns from complaints is important, and a detailed breakdown of operational learning from complaints can be found in section 2.2 of this report.

The graph below shows the *category* of complaints received about Highways, Transport & Planning. Complaints in this space are often complex and can include dissatisfaction about many elements of the service provided. For reporting purposes, the assigned category is a reflection of the salient or substantive issue complained about.



The graph below shows the percentage of complaints upheld in each category.

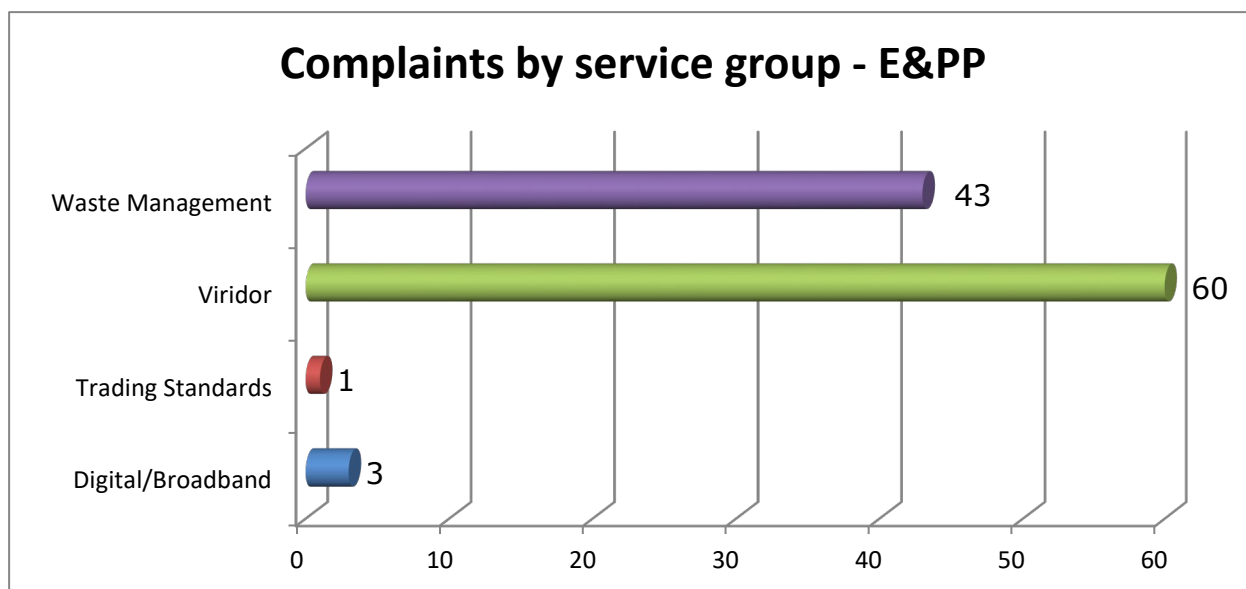


Environment & Public Protection

Environment and Public Protection	Stage One	Stage One Upheld	% upheld	Stage One % within 10 days or notified extension	Stage Two	LGSCO	Compliments
2019	107	26	24%	64%	4	2	195
2018	109	43	56%	90%	3	0	276

The Environment & Public Protection directorate includes services such as Trading Standards; Energy Services; Sustainability; Digital/Broadband delivery; and one of the Council's largest services, Waste Management.

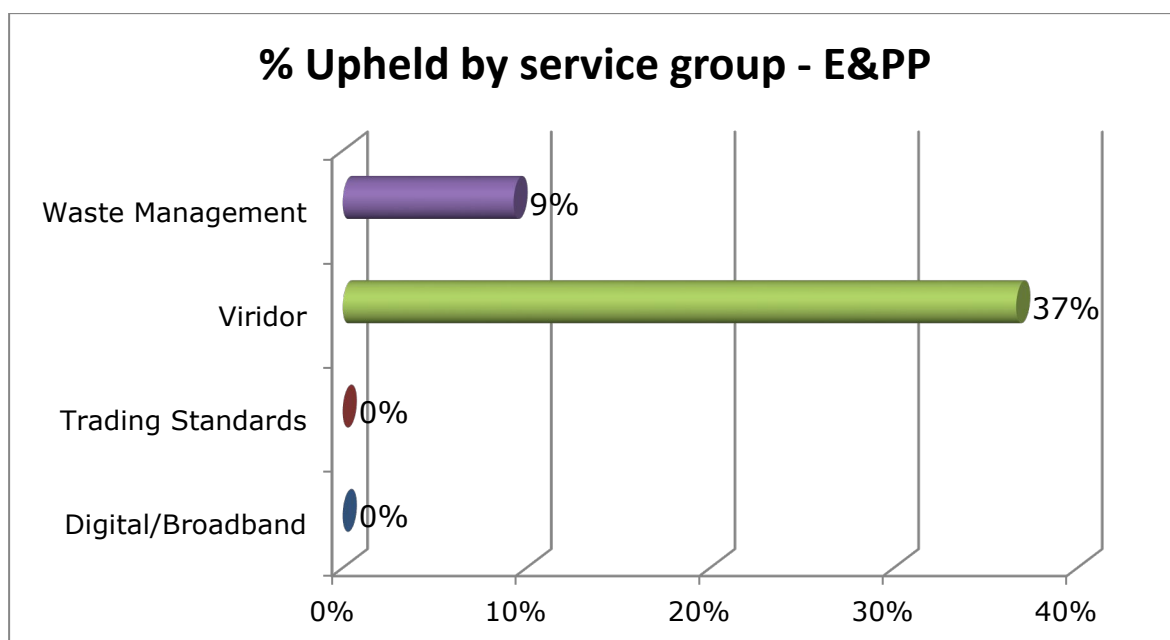
Waste Management and the outsourced management of the recycling sites across West Sussex generate a large number of complaints, compliments and objections to policy.



The percentage of complaints upheld in relation to the Council's Waste Management service was very low, with only 9% of complaints resulting in a finding of upheld or partially upheld.

The majority of complaints upheld in this space relate to complaints about Viridor, the company contracted to run the Council's waste and recycling sites.

It is important to provide context to the 60 complaints recorded against Viridor. In 2019, averages of 153,000 site visits were recorded *per month* in West Sussex.



Many complaints received in relation to Viridor are anecdotal accounts of a customer's dissatisfaction with the customer service received on site. Viridor Area Managers investigate these complaints, often without any concrete evidence on which to rely. Responses are often very customer focussed, with an apology provided as a suitable remedy alongside an assurance that the staff on site will be reminded of their duty to provide excellent customer service, regardless of the challenges faced.

This type of complaint is recorded as 'upheld'. In 2020, the Customer Relations Team will continue to quality assure all Viridor responses prior to their issue, and it is hoped that in doing so, a more meaningful overview of the outcomes of such complaints will be recorded.

Education & Skills

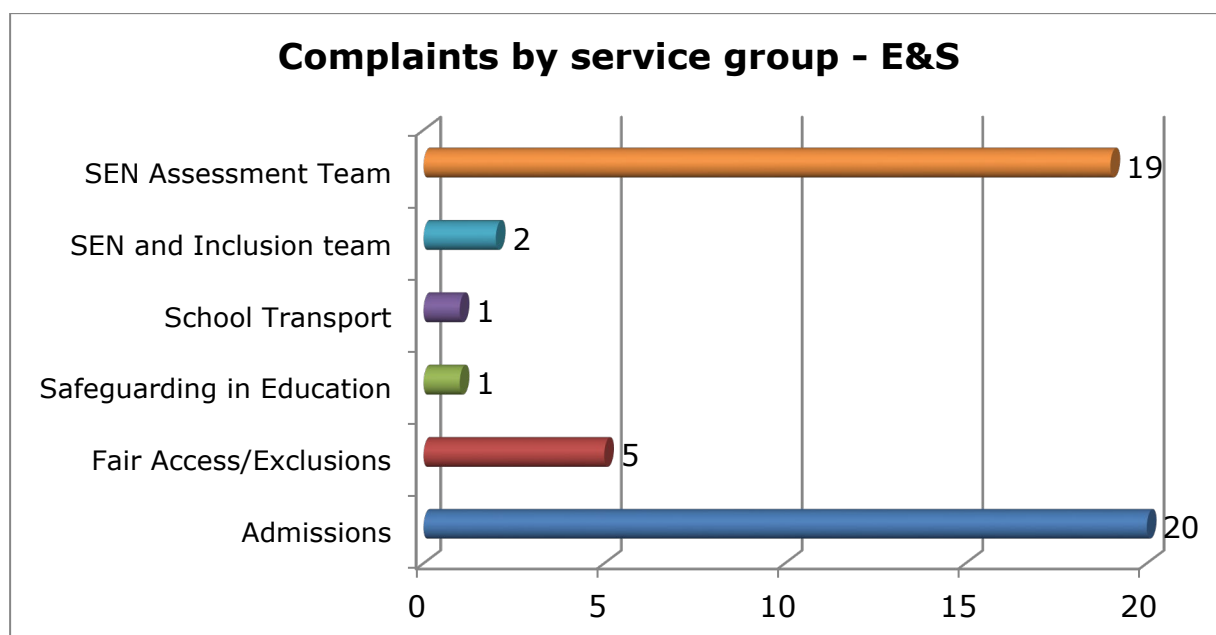
Education and Skills	Stage One	Stage One Upheld	% upheld	Stage One % within 10 days or notified extension	Stage Two	LGSCO	Compliments
2019	48	7	15%	83%	8	6	114
2018	35	8	23%	80%	4	6	81

The Education & Skills directorate includes teams and services that support and some of our most vulnerable young people.

The work undertaken by many of the teams within Education & Skills often involves extremely emotive subject matter and complex decision making, which in turn attract a relatively large amount of complaints/disputes.

The directorate also receives a large number of compliments in recognition of the good work undertaken with young people and their families.

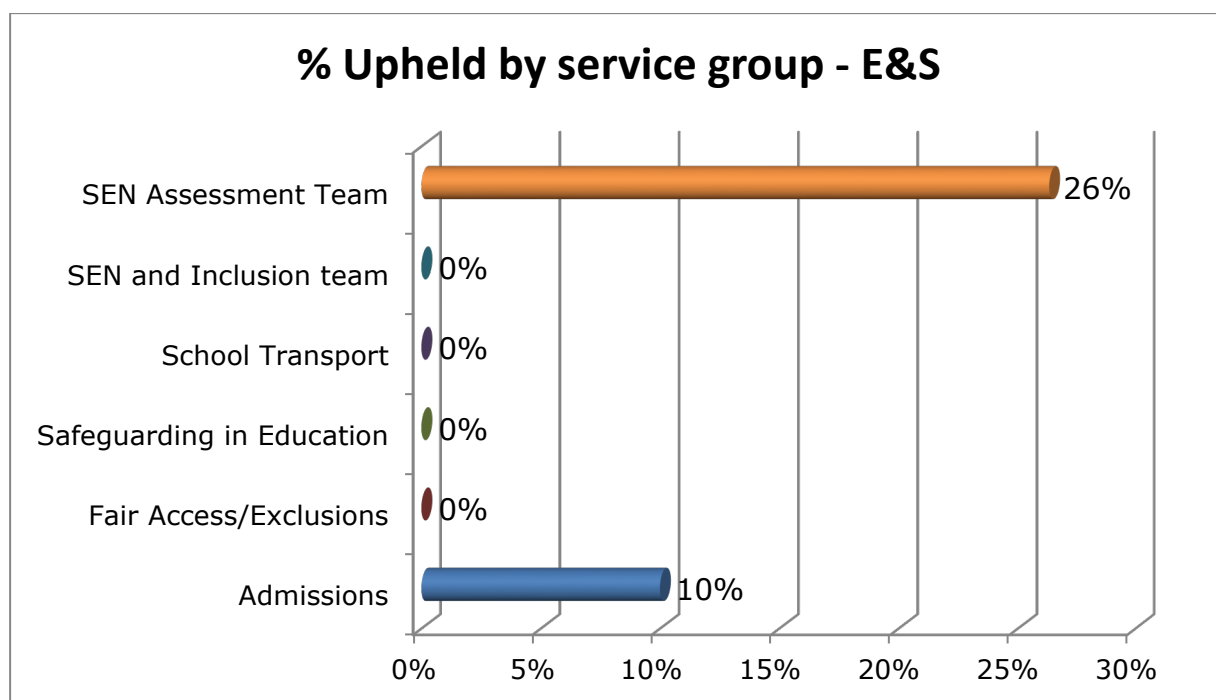
The table below shows a breakdown of complaints by grouped service areas for 2019.



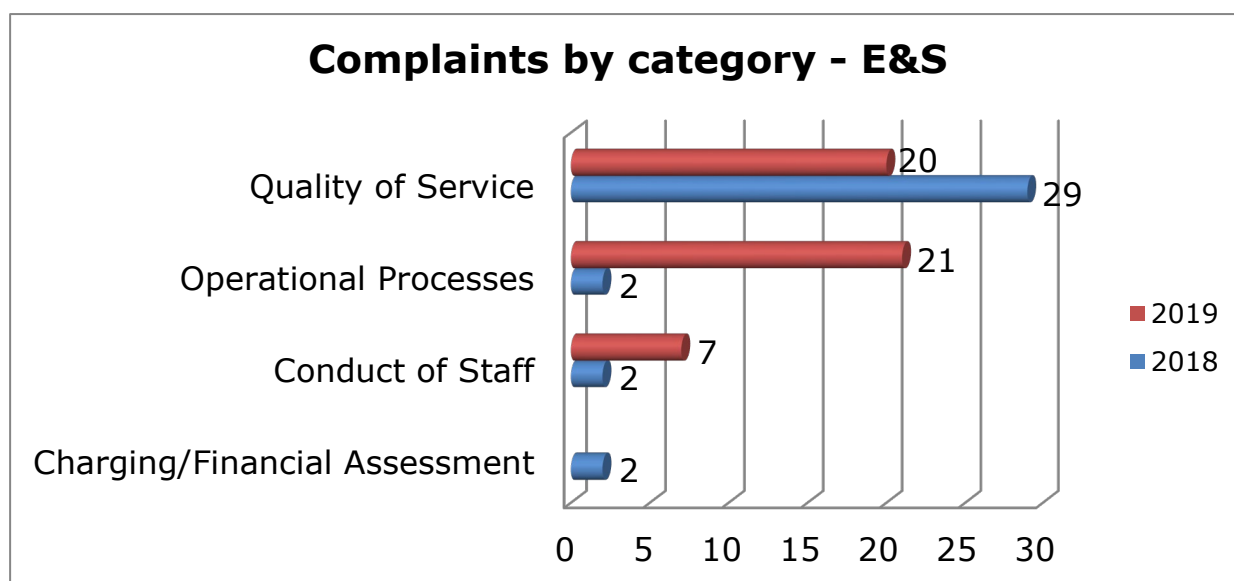
The service areas that facilitate special educational needs and school admissions attract the highest number of complaints within Education & Skills. The complaints process cannot consider the decisions reached in relation to admissions and an assessment of special educational needs as there are separate appeals processes in place, but it is possible to investigate complaints about processes followed and delay. 13 of the complaints received in this space related to delay (8 for Admissions; 5 for SEN); 11 to a perceived failure to correctly follow established processes (6 for Admissions; 5 for SEN).

The percentage of complaints upheld against service areas are detailed below. The majority of complaints upheld are within the Special Educational Needs Assessment team, although 26% reflects five complaints upheld.

To provide some context to the numbers of complaints recorded against the Special Educational Needs Assessment, the team undertook 5711 assessments in 2019 in relation to new and maintained Education Health & Care Plans.



The graph below shows the category of complaints received in relation to Education & Skills.

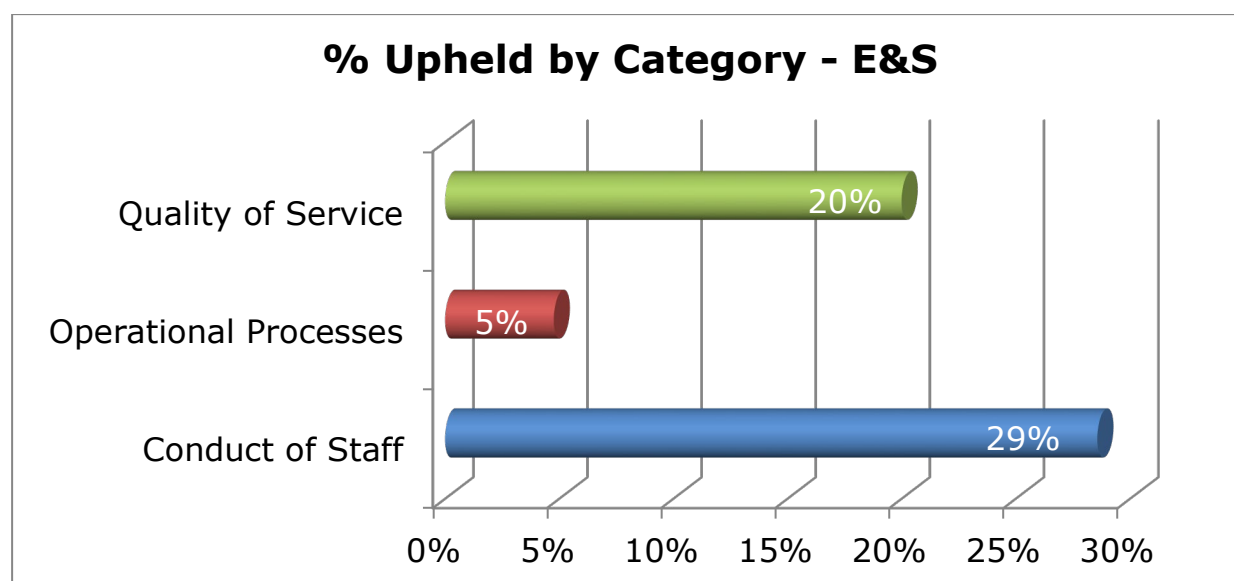


The graph below shows the percentage of complaints upheld in each category.

The large percentage of upheld complaints around 'conduct of staff' is of course due in part to a small data set. However, some context is provided here:

One of the two 'staff conduct' complaints that were upheld or part upheld was an allegation of malicious intent by the member of staff. This was not upheld, but the investigation did find that the staff member had not communicated with the family as effectively as would be expected, and had failed to send a key document. The other investigation found that agreed actions had not been taken in a timely manner, which had led to a delay in the issuing of the child's Education, Health and

Care Plan. Appropriate management action was taken in both cases as a result of the complaint.



Communities

Communities	Stage One	Stage One Upheld	% upheld	Stage One % within 10 days or notified extension	Stage Two	LGSCO	Compliments
2019	19	11	58%	84%	1	2	4744
2018	18	8	44%	100%	4	1	4272

The Communities Directorate consists of customer facing teams committed to serving the community. Customer Experience, Libraries Heritage & Registration and Community Safety all fall under this directorate.

Teams in this space receive a large number of compliments and historically, very few complaints. The 19 complaints recorded in 2019 is consistent with the number recorded in 2018 when 18 complaints were received.

Of the complaints recorded against teams within the Communities directorate 11 (58%) were upheld or upheld in part. When compared with the Council average of 22% complaints upheld in the reporting period, it is necessary to add context to better understand that figure.

All 11 upheld complaints related to 'conduct of staff' and relate to Customer Service Centre staff (6 complaints); the Customer Relations Team (4 complaints); and Library staff (1 complaint).

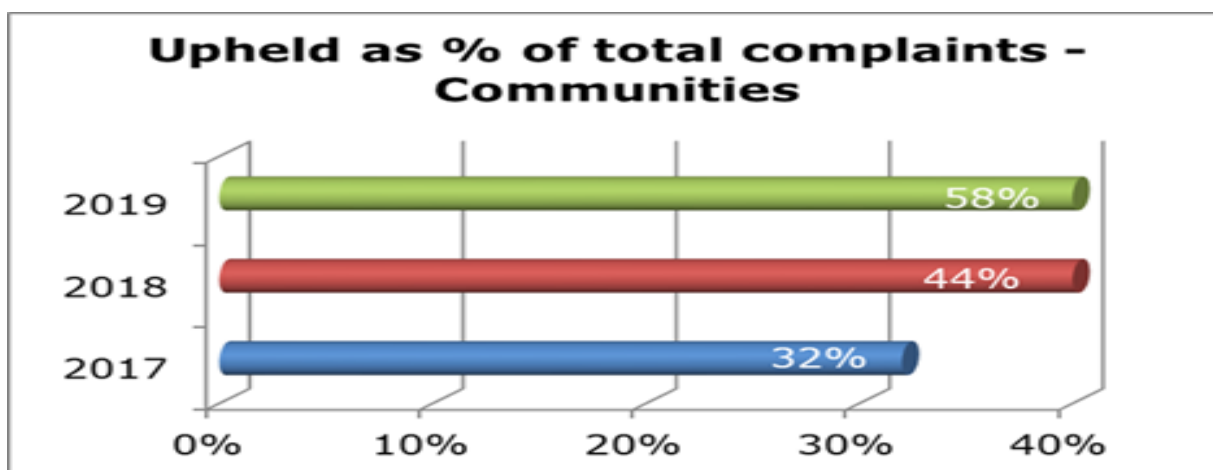
A review of the 11 complaints shows that they relate to individual staff members and are not indicative of a widespread issue.

The Council's Customer Service Centre managed over 400,000 interactions with customers across all platforms in 2019. This level of interaction with customers has resulted in 6 upheld complaints but the context in which that number sits is important. Individual staff performance was addressed as a result of all of the

upheld complaints and staff were reminded of their obligation to provide outstanding customer service at all times.

The 4 upheld complaints that recorded against the Customer Relations Team related to failure to appropriately manage complaint casework (2 complaints from the same customer in relation to the same complaint); delay in responding (1 complaint); and attitude of staff (1 complaint).

The Council's customer service staff all work to an agreed expectation that customers will receive the very best service possible. Where individual fault has been identified, staff have been reminded of their duties and apologies have been issued to the complainants in question. The Council is committed to driving down complaints of this nature as they are, ultimately, avoidable. The Customer Relations Team and the Customer Experience service will continue to work hard to ensure that the number of complaints in this space are minimised through training and ongoing support to customer facing officers.



5 Local Government and Social Care Ombudsman

Once a customer has exhausted the Council's complaints procedures, they have the option to ask the Local Government and Social Care Ombudsman (LGSCO) to consider their complaint. This report focusses on the number of LGSCO decisions reached in the reporting period, as it is from these decisions that meaningful data and learning can be analysed.

The number of *decisions reached* by the LGSCO increased from 33 recorded in 2018 to 35 decisions recorded in 2019.

The LGSCO has three different upheld categories:

- Upheld: Maladministration and injustice;
- Upheld: Maladministration, no injustice;
- Upheld: No further action

In 2019, the LGSCO returned an upheld decision on 4 of the 35 complaints considered; this represents a 11.5% upheld rate, which is a very slight decrease in the percentage of upheld Ombudsman complaints recorded in 2018 (12%).

It is not possible to predict accurately how many complaints will be escalated to the LGSCO, as all complainants have the right to request their complaint is reviewed by the LGSCO.

Local resolution is key to improving the customer experience, and escalations to LGSCO will remain a focus for continual monitoring and review, as we try to resolve complaints for customers as quickly and simply as possible.

It is pleasing to note that the number of upheld decisions is very low; this suggests that responses at stages one and two are robust and have considered presenting complaints appropriately and fairly.

Of the four Ombudsman investigations that found fault with the Council, two related to Education & Skills and two related to Highways & Transport; there were no upheld decisions made against Environment & Public Protection.

Details of these upheld complaints and associated learning are outlined below.

Upheld: Maladministration and Injustice

LGO 19 001 589 – Highways & Transport

Mr D complained that the Council's consultation for a new road was not an open and unbiased process.

The Ombudsman found no fault in the Council's response to Mr D's concerns, although there was fault identified in how the Council managed the formal complaint, as the matter was retrospectively logged as Representation and not a Stage One complaint, although both are stages within the Council's corporate complaints procedure. The Ombudsman considered the apology issued to be sufficient remedy and made the finding *Maladministration and Injustice - NFA*

LGO 19 005 355 – Education & Skills

Ms F complained the Council did not properly consider her request for her summer born daughter to delay starting school into Reception until after she reaches compulsory school age. She said the Council did not explain how entry into Year 1 in September 2020 would be in her best interest.

The Ombudsman found fault with the Council's decision making and expressed concerns that if the approach taken with Ms F had been taken with other families, they too may have been affected by this fault.

The Ombudsman recommended the Council apologise, remake its decision, and review its pending decisions in other similar cases.

LGO 19 006 997 – Education & Skills

Ms M complains the Council did not properly consider her request for her summer born son to delay starting school into Reception until after he reaches compulsory school age. She says the Council has not explained how entry into Year 1 in September 2020 would be in his best interest.

The Ombudsman found fault with the Council's decision making and instructed the Council to apologise to Ms M and to reconsider her application for delayed entry ensuring the decision is made in line with the school admissions code and government guidance.

Upheld: Maladministration, no Injustice

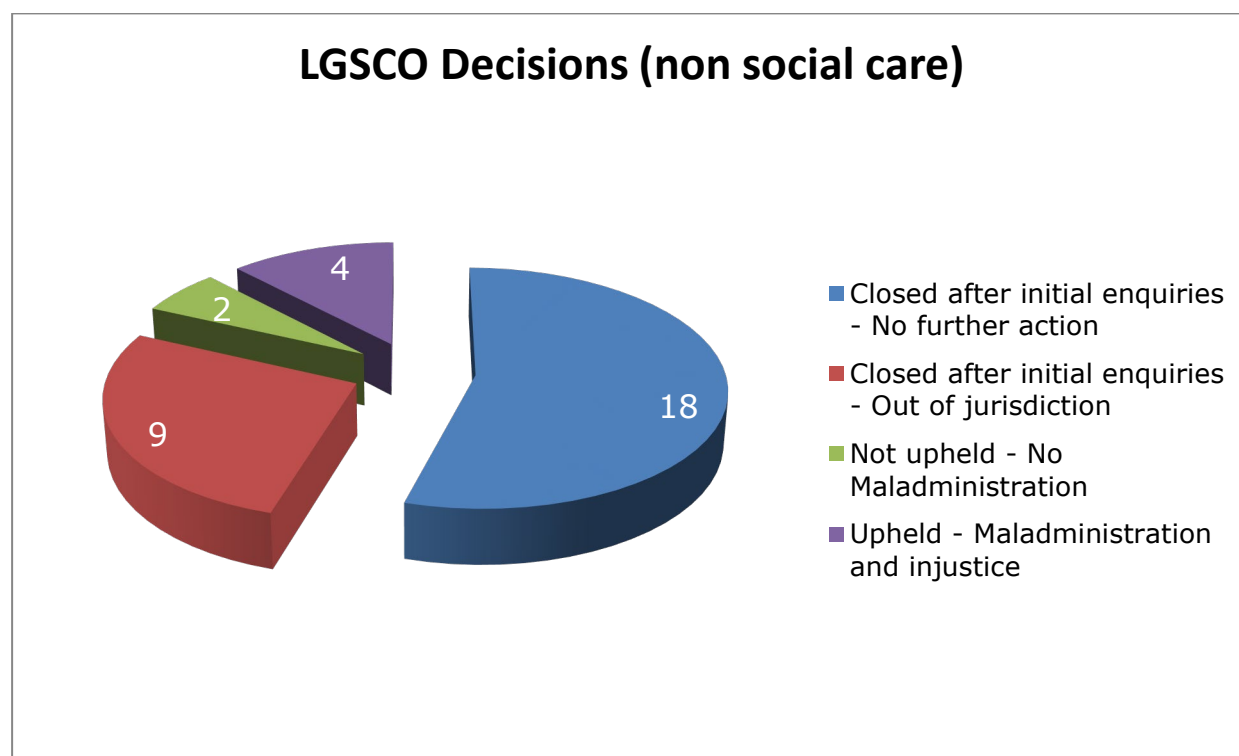
LGO 18 015 717 – Planning

Mr & Mrs X complained about the Council's handling of a retrospective planning application for lighting in a school car park to the rear of their property and the timing of when the lights should be turned off.

The Ombudsman found no fault with the Council's management of the retrospective planning application. The Ombudsman found that Council staff had appropriately responded to Mr & Mrs X's concerns when raised.

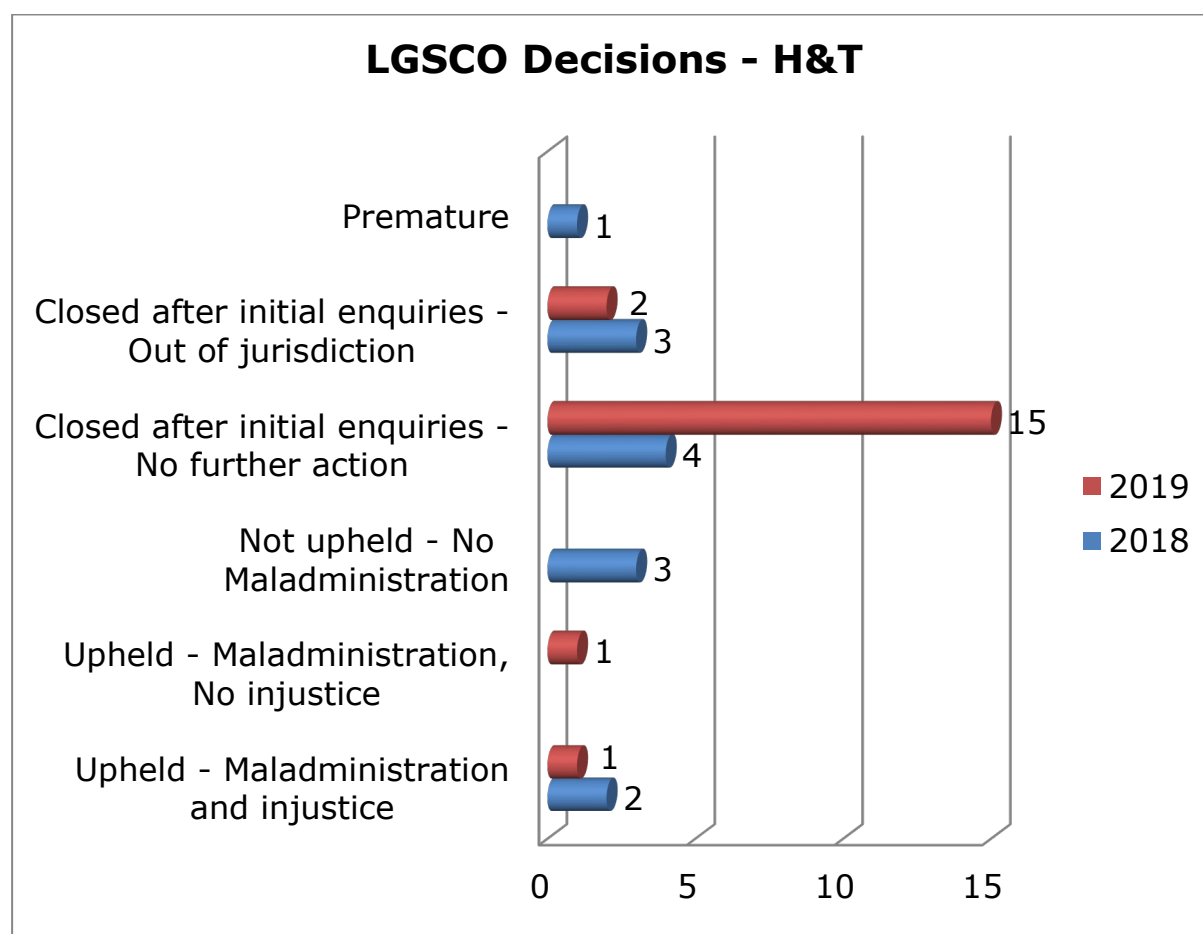
The Ombudsman found no evidence of maladministration in the Council's actions regarding the planning process. There was a delay in managing Mr & Mrs X's complaint, which merited a finding of maladministration, no injustice.

Below is the broad overview of Ombudsman decisions reached in 2019 in relation to the Council's corporate functions.

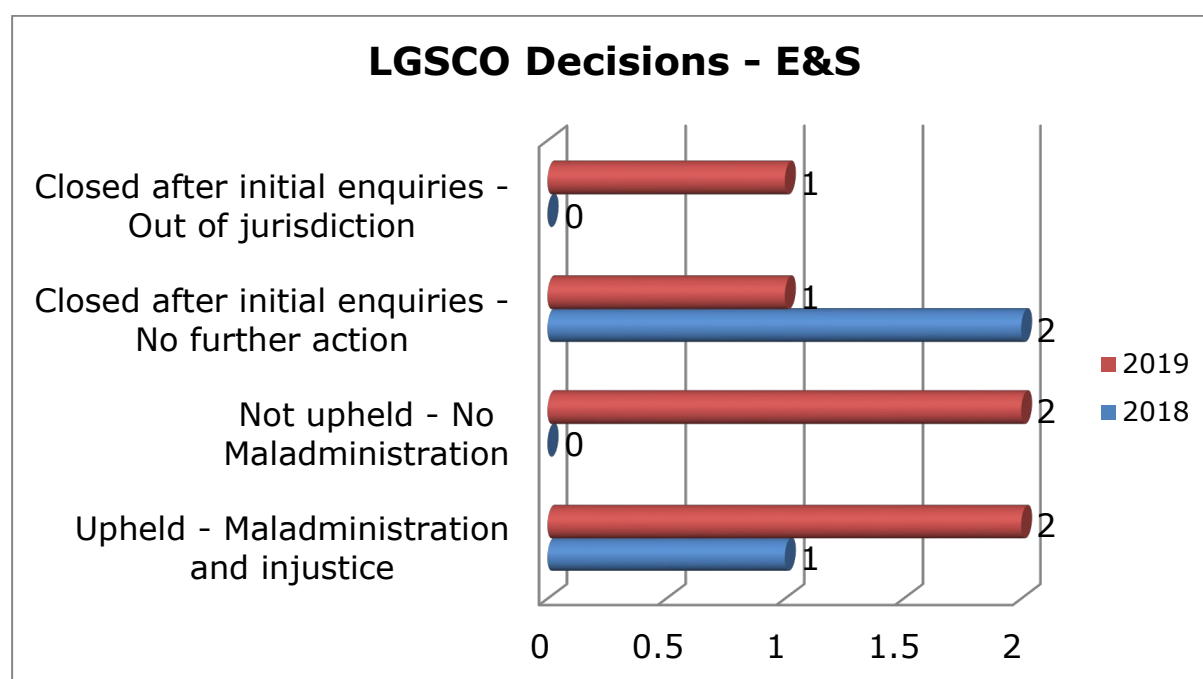


A more detailed breakdown of the decisions reached by the Ombudsman in each of the three directorates focussed in this report is listed below:

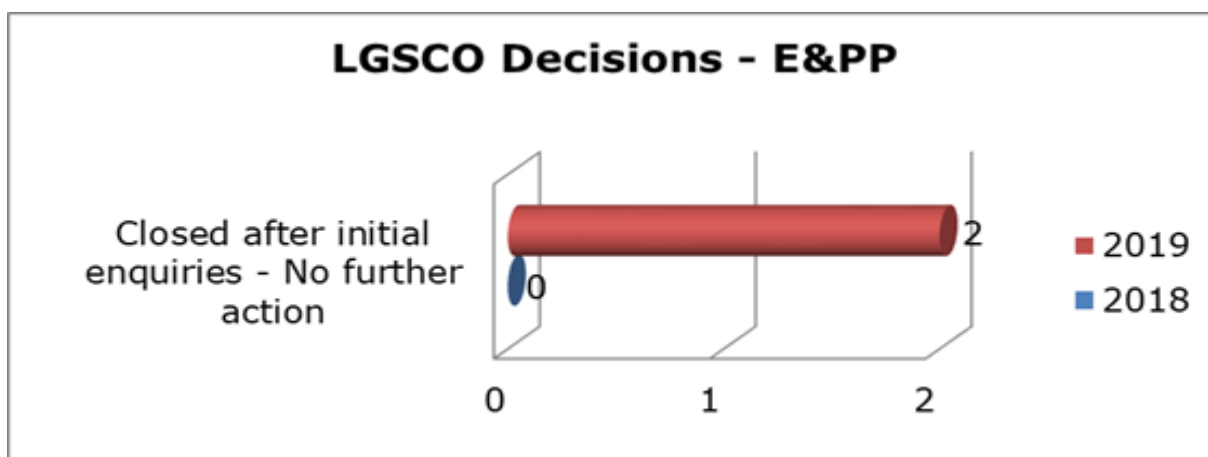
Highways & Transport



Education & Skills



Environment & Public Protection

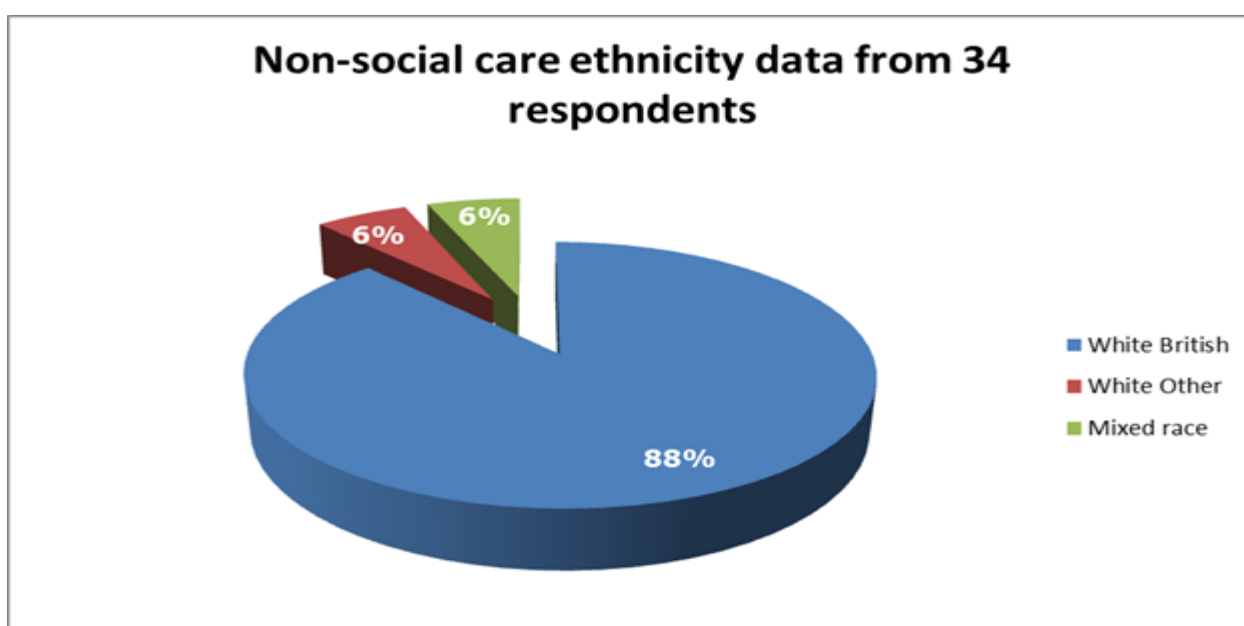


An anonymised list of cases considered by the LGSCO is available from the Complaints Manager David.Tominey@westsussex.gov.uk; all anonymised decision reports are held on file and accessible on request.

6 Equalities Monitoring

The process for monitoring complaints by age, sex, race, disability, religion or belief, and gender reassignment has historically produced insufficient data to form any realistic judgement as to the effectiveness of the procedure for individual groups.

Ethnicity was recorded for 34 complainants. This number is relatively low when compared to data collected in relation to social care complaints as complainants are under no obligation to provide this information, neither does the Council hold a database of all residents from which to populate missing data fields. The data collected on ethnicity in non-social care complaints was this:



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**Key decision: Not applicable
Unrestricted**

Standards Committee

2 November 2020

Standards Committee Annual Report

Report by Director of Law and Assurance

Electoral division: Not applicable

Summary

The attached appendix is recommended as the Annual Report to the Council.

Recommendations

- (1) That, subject to any amendments agreed by the Committee, the draft report be approved.
-

Proposal

1 Background and context

- 1.1 The Committee is able to submit an annual report to the County Council to outline its activities over the last year. A draft report is attached that sets out the key activities of the Committee from April 2019 - March 2020.

2 Proposal details

- 2.1 The Committee is invited to approve the draft report subject to any amendments it feels would be appropriate. The final version will be submitted to the County Council on 11 December 2020.

3 Other options considered (and reasons for not proposing)

- 3.1 Not applicable.

4 Consultation, engagement and advice

- 4.1 Not applicable.

5 Finance

- 5.1 There are no revenue budget consequences.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Reputational risks and risks to decision-making through members not maintaining high standards.	An annual report made available to all members assists the Committee in its role to promote high standards of conduct.

7 Policy alignment and compliance

7.1 Not applicable.

Tony Kershaw

Director of Law and Assurance

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Appendix – Draft Council Report

Background papers – None.

Standards Committee: Annual Report 2019/20

Introduction

- 1** This report outlines the activities of the Committee from May 2019 to April 2020 and records issues the Committee considers important for the future. In summary, the work of the Standards Committee is:
 - Promoting and maintaining high standards of conduct.
 - Casework conducted through Sub-Committees
 - Ensuring that appropriate training is organised for members.
 - Overseeing Council policies on complaints handling and whistle blowing.

Promoting and maintaining high standards of conduct

- 2** The promotion of high standards of conduct was principally demonstrated through the comprehensive training provided for members and the casework undertaken. Following the County Council elections in May 2017, a comprehensive induction programme included sessions on standards and the code of conduct, including an initial introduction for new members on 16 May 2017, then workshop training for all members during June 2017, undertaken by the Monitoring Officer and Deputy Monitoring Officer. Only one member was unable to attend a workshop and this member attended a meeting with the Monitoring Officer to undergo the training.
- 3** All members newly elected in May 2017 submitted their register of interests forms by 24 May 2017. All members have been reminded to keep their register of interests up to date and many updates have been recorded over the last year. Advice was given by the Monitoring Officer and Democratic Services staff to assist members in making complete and correct entries. The most recent reminder to all members was issued in October 2020.

Independent Persons

- 4** The role of the independent persons is to assist the County Council in ensuring and maintaining a high level of integrity in the conduct of the elected members of the council and in how they discharge the council's business, through the implementation of the Member Code of Conduct and the constitutional arrangements supporting it. A major part of the role is to advise the Standards Committee's sub-committees in casework.
- 5** Mr John Donaldson and Mr Steve Cooper have undertaken the role of Independent Person over the last year, including involvement in individual casework and commenting on Government consultations being considered by the Committee.

Casework

- 6** In the period 1 May 2019 – 31 April 2020 three cases were considered. An Assessment Sub-Committee took place on 7 February 2020, comprising Cllr Barnard, Cllr Patel and Cllr Smytherman. The matters concerned were determined as being of not sufficient importance to warrant further investigation and the matters were closed.

- 7** It is clear that familiarity with the Code helps members feel more confident in their role. Early discussion with the Monitoring Officer about potentially problematic situations is both encouraged and useful. The low number of cases is an indication of the effectiveness of the training and guidance given and of members' positive approach to standards of conduct.

Ethical Governance, Whistle Blowing and Complaints Handling

- 8** The Committee receives reports on any cases under the County Council's Whistleblowing Policy. The reports are helpful in indicating whether any measures are needed to address underlying problems. There have been three cases in the last year.
- 9** The Committee also receives regular reports about complaints handling across the authority. Generally there is a positive culture within the organisation about complaints and levels of complaints were broadly stable.

Conclusion

- 10** It is clear that maintaining good standards of conduct is taken seriously in the County Council. The Standards Committee believes that this can only serve to improve public confidence.

Recommended

- (1) That the report be noted.

Janet Duncton

Chairman of the Standards Committee

Contact Officer: Charles Gauntlett, Senior Advisor, 033022 22524

Background papers

None.

Standards Committee**2 November 2020****Merger of Planning and Rights of Way Committees: Code of Conduct Revisions****Report by Director of Law and Assurance****Electoral division: Not applicable**

Summary

The Governance Committee is recommending to the County Council on 6 November 2020 that the Planning and Rights of Way Committees be merged. It asked the Director of Law and Assurance to prepare the necessary constitutional documents. One such document is the Code of Practice in Probity in Planning and Rights of Way.

Recommendations

- (1) That the proposed revisions to Part 5, Section 3 of the Constitution as outlined in the appendix be supported for submission to the County Council for approval on 6 November 2020.
-

Proposal**1 Background and context**

- 1.1 The Governance Committee is recommending to the County Council that the Planning and Rights of Way Committees be merged. It asked the Director of Law and Assurance to prepare the necessary constitutional documents to enable the merger to take effect.
- 1.2 One document that requires revision is part of the Council's Code of Conduct, Part 5, Section 3 of the Constitution – Code of Practice in Probity in Planning. As part of the Code of Conduct, it is within the Standards Committee's remit to consider changes to this document and to make recommendations to the County Council.

2 Proposal details

- 2.1 The proposed changes to Part 5, Section 3 of the Constitution are set out in the appendix to the report. Most of the changes indicated within the document are minor in nature, to reflect the proposal that a single Planning and Rights of Way Committee considers both functions in future.
- 2.2 One substantive addition is proposed in section 8, which is to include specific advice to members about rights of way site visits, which are usually undertaken

individually by members. There is no proposed change to the method of individual members visiting rights of way, but guidance is included on lobbying.

2.3 Officers have concluded that the existing sections 10 and 13 should be recommended for deletion, as they refer to former practices which have not actually been carried out for some time - regular reporting on planning permissions and the keeping of a telephone log. The Council is no longer resourced to provide these tasks, so it is recommended that they be deleted altogether and that the remaining sections be renumbered accordingly.

2.4 As the Council meets four days after this Committee, it is proposed that the outcome of this Committee's consideration of the item will be reported to Council before it is asked to agree the merger of the Planning and Rights of Way Committees.

3 Other options considered (and reasons for not proposing)

3.1 This Committee is only asked to consider the proposed changes to Part 5, Section 3 of the Constitution as a consequence of the Governance Committee's decision.

4 Consultation, engagement and advice

4.1 Not applicable.

5 Finance

5.1 There are no budget consequences.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Poor decision-making due to members acquiring new responsibilities and practice arrangements.	Training will be provided for all members of a new merged committee. Officers would continue to prepare reports on the distinct items, containing relevant advice to help the committee to make sound decisions.

7 Policy alignment and compliance

7.1 Not applicable.

Tony Kershaw

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Appendix – Proposed revisions to Part5, Section 3 of the Constitution

Background papers - None

Part 5 Section 3

Code of Practice on Probity in Planning and Protocol on Public Participation at Planning and Rights of Way Committees

Approved by the County Council
at its meeting on 11 May 2001
and containing all subsequent approved
amendments up to 21 July 2017

January 2020

Part 5 Section 3

Code of Practice on Probity in Planning

1. Introduction - The need for guidance

- 1.1 The third report of the Committee on Standards in Public Life (the Nolan Committee) recommended that all planning committees should consider whether their procedures are in accordance with best practice, and adapt their procedures if necessary, setting them out in a code accessible to members, staff, and the public.
- 1.2 The planning system regulates the development of land in the public interest. In doing so it can greatly affect the value of land and the character and amenity of an area. Inevitably therefore, there will be perceived winners and losers. In order for public confidence in the planning system to be maintained it is important that the system operates in a transparent and fair manner giving no reasonable basis for asserting that decisions have been made in a partial manner. This is particularly important as planning is not an exact science. Planning decisions are based on the weighing of competing interests and are therefore always open to criticism that the balance which has been struck is wrong. This heightens the need for an open and fair system.
- 1.3 The aim of this Code of Practice is therefore to ensure that the County Council does operate an open system. By setting out the County Council's approach to both the determination of planning applications and the Development Plan making process it is hoped that public confidence in the system can be maintained. The code also aims to provide helpful guidance to both members and officers in ensuring that there is no reasonable basis for alleging that the planning system has been operated in a partial or biased manner.

2. General Role and Conduct of Members and Officers

- 2.1 Section 54A of the Town and County Planning Act 1990 requires all planning applications to be determined by reference to the Development Plan, if material to the application, and any other material consideration. If the Development Plan is material to the application, then the statutory position is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The emphasis in determining applications is upon a plan led system.
- 2.2 The public are entitled to expect the highest standards of conduct and probity by all persons holding public office and in particular when dealing with planning matters only material planning considerations are taken into account. There are statutory provisions and codes setting standards which must be followed.
- 2.3 A range of seminars is held for members after the County Council elections. Guidance is given on the Code Conduct and the Constitution.

In addition, members of the Planning **and Rights of Way** Committee will be expected to attend specialised training seminars in relation to planning regulations and procedures, the Development Plan, **rights of way** and the practical operation of this Code of Practice. **In consultation with officers, the Chairman of the Planning and Rights of Way** Committee will review annually the training requirements of the members.

- 2.4 Members are required to comply with the Code Conduct. The general obligations of members under the Code of Conduct include that "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute." (paragraph 3 of the Code of Conduct). In addition, a member "must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage" (paragraph 3 (8) of the Code of Conduct). Members should therefore ensure not only that they avoid impropriety but that they avoid any situation in which impropriety could reasonably be suspected.
- 2.5 Officers are employed by and serve the whole County Council. They advise the County Council, the Executive and its non-Executive committees and are responsible for effectively implementing the decisions of the County Council, the Executive, non-Executive committees, or officers where decisions are formally delegated to them. Officers must act in accordance with the requirements of the Local Government and Housing Act 1989 and the various documents referred to in the **Human Resources** Guidance on Propriety and Official Conduct for Officers. Officers must also act in accordance with the orders of conduct of the professional bodies to which they belong.
- 2.6 Officers are all required to be politically neutral and for senior officers there are political restrictions imposed by the Local Government and Housing Act 1989. This ensures that all members should be able to seek the advice of officers and that information communicated privately to officers by members will be kept in confidence.
- 2.7 Hospitality, gifts or sponsorship by third parties should generally not be accepted by members and officers. Guidance on the acceptance of hospitality is provided for members in the Guidance on Hospitality and Gifts in Part 5, **Section 1**, Part 5 of the Constitution and for officers in the **Human Resources** Guidance on Propriety and Official Conduct for Officers. The correct test is to consider whether a member of the public apprised of all the facts would regard the acceptance of the offer as likely to unduly influence a member or officer. For example in terms of the provision of refreshment, an appropriate question may be, whether if the event had been hosted by the County Council, the County Council would have provided refreshment. If the answer is no, then the offer should be declined. In addition to this general principle of propriety, members should be aware of a specific duty under the Code of Conduct (paragraphs 5(1)(cc)(viii) and 10(2)) that they must within 28 days of receiving any gift or hospitality with an estimated value of over £25 provide written notification to the Director of Law and Assurance of the existence and nature of that gift or hospitality.

3. Declaration and Registration of Interests

- 3.1 It is the responsibility of individual members to ensure that the decisions they make **on** in planning **and rights of way** matters are in the public interest and not in order to further their own private interests. Not only must there be no actual impropriety but there must be no grounds for suspecting that decisions have been taken for anything other than proper reasons. However, members are prominent members of the community with often well-publicised views on a number of issues. They are also often members of community bodies such as school governing bodies and local charities. Care and common sense is required so that members may play their role in the community.
- 3.2 It is a member's responsibility to observe the guidance on declaring a personal, prejudicial or pecuniary interest as set out in paragraphs 4 to 9 of the Code of Conduct.
- 3.3 The Register of Members' Interests maintained under the Local Government Act 2000 will be updated regularly. Where any changes occur to members' interests, they should be notified to the Director of Law and Assurance as soon as they occur by the member concerned.
- 3.4 Members will need to be aware that simply having a personal interest in a matter to be considered by the Planning **and Rights of Way** Committee will not automatically mean that they must declare their interest and withdraw. As soon as they have established that they do have a personal interest, they should then consider the objective test of bias, which is; "would a member of the public with knowledge of the relevant facts reasonably think that a member's judgement of the public interest in that matter would be prejudiced." If the answer is "yes" to this question, a member may then have a prejudicial interest. Where this is the case, there are several categories of exemptions which members **may be** ~~may be~~ entitled to claim. Alternatively in certain instances, members may be able to obtain a dispensation from the Director of Law and Assurance (paragraph 9(1)(a) of the Code of Conduct). If the member has the benefit of exemption or dispensation, they should still declare their interest but they may participate in the meeting. If no exemption or dispensation applies, the member may exercise his or her right to remain in the meeting and address the Committee to the same extent as members of the public are entitled. After doing this he or she must withdraw from the room where the meeting is being held.
- 3.5 Members with significant property interests or other interests which would prevent them from voting (for example solicitors acting in the property field) should avoid sitting on the Planning **and Rights of Way** Committee. Members in this position should advise their Group Leaders before nominations for membership of the Committee are put forward.

4. Applications for the County Council's Own Development and Development Proposals Submitted by Members

- 4.1 Applications made by a Cabinet Member for development by the County Council, such as an application seeking planning permission for a new

school must be determined in an identical manner to applications made by the general public and the same planning policy considerations applied. The County Council's current practices and procedures achieve this with identical consultation and publicity in relation to the application. Applications for development by the County Council are determined, not by the Cabinet Member concerned, but by the Planning **and Rights of Way** Committee. Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the County Council if the development is permitted.

- 4.2 The County Council has adopted a Delegation Code of Practice for planning applications **and rights of way** which is set out in the Scheme of Delegation and which gives clear guidelines on when applications will be determined under delegated powers. Provided these are met, there should be no grounds for an allegation of unfairness.
- 4.3 If an application has been made by a member, one of their family or friends then that member should not vote or speak on the application. Equally, a member who has acted in a professional capacity for any individual, company or other body pursuing a planning matter should not vote or speak in relation to an application. The Director of Law and Assurance, as Monitoring Officer, should be informed of all such applications as soon as they are submitted.

5. Lobbying of and by Members

- 5.1 The Nolan Report recognises that in order for the planning system to work properly, sections of the community must have an opportunity to make their views on an application known, and that one way of doing that is through their elected representative. It is not therefore suggested that members should decline any form of contact with either applicants or objectors to a proposal. However if this contact is not managed properly, where the local elected representative is a member of the Committee, allegations can be made that a member has formed a pre-determined view of the application and is not discharging his or her obligations properly. This can lead to the decision being overturned by the courts.
- 5.2 A member should not favour or appear to favour any person, company, group or locality. Strictly, a member of the planning committee should not make up his or her mind on an issue until all the information has been duly considered and it is time to vote in committee. In practice a member will often begin to form a judgement before that point, but it is important that members should not declare their voting intentions until that point has been reached. To do so without all relevant information and views would be unfair and prejudicial and may amount to maladministration. It should be possible for a member to give support to a particular body of opinion whilst waiting until the Planning **and Rights of Way** Committee and hearing all the evidence presented before making a final decision.
- 5.3 Individual members should reach their own conclusions on a planning **or rights of way** matter rather than follow the lead of another member. In this regard, any political group meetings prior to Committee meetings

should not be used to decide how members should vote. Decisions can only be taken after full consideration of the officer's report and information and discussion at Committee.

- 5.4 When dealing with the public it is quite proper for members to give factual information; advice as to the process and procedures followed by the County Council; advice about the contents of the development plan; and ~~who~~ **which officer** to contact ~~in the Planning Unit~~ for further information. Equally it is appropriate for a member to report the public's views either to officers or to the **Committee** but it would be wrong to exert pressure on an officer to change his or her recommendation to a committee. If a member is pressed for an opinion on the merits of a planning **or rights of way** matter it is best practice that any opinion given should be qualified by a statement that a member cannot make up his or her mind until all the information is to hand and that will not be until the **Committee** considers the matter.
- 5.5 The problem of lobbying can be particularly difficult for a local member who may hold strong views in relation to a planning **or rights of way** matter in his or her own division; he or she may even have been elected specifically to present those views to the County Council. A local member who is not a member of the Planning **and Rights of Way** Committee is, with the Chairman's prior agreement, permitted to attend the meeting of the committee at which a planning matter is to be determined in order to put forward his or her constituents' views. For a local member who is a member of the Planning **and Rights of Way** Committee, it is his or her responsibility to strike the right balance having regard to the general rules laid down in the Code of Conduct. It should be possible for such a local member in these circumstances to give support to a body of opinion whilst not advocating a particular outcome for a planning **or rights of way** application prior to the committee meeting. However, if a member intends to participate in the determination of a planning **or rights of way** application he or she should avoid leading a campaign or organising support for or against the planning application or, alternatively, the member should declare a prejudicial interest and not take part in voting on the matter. A member may exercise his or her right to remain in the meeting and address the Committee to the same extent as members of the public are entitled. After doing this he or she must withdraw from the room where the meeting is being held.
- 5.6 A lobbyist may write to members direct without copying the letter to officers. Objections can only be considered where they can be made public. Therefore, where a member intends to rely on the contents of the letter or to make the letter available to the Committee, a copy of the letter should be given to the Director of Law and Assurance and Director of Highways, Transport and Planning at the earliest opportunity prior to the meeting of the Committee. This will ensure that the content of the letter can be verified and commented upon in fairness to all parties.
- 5.7 As soon as is practicable, members shall declare at Planning **and Rights of Way** Committee any lobbying or contact with any person (to the avoidance of doubt, the term "person" includes a group of people or a

company) in relation to any application which is to be determined at that Committee.

6. Pre-Application Discussions

- 6.1 In relation to pre-application discussions, it should be made clear at the outset that the discussions will not bind a council to make a particular decision and that any views expressed are personal and provisional, until all relevant information is submitted and consultations on it have taken place.
- 6.2 Advice should be consistent and, ***when dealing with a planning application***, based on the development plan. A written note should be made of pre-application discussions and telephone calls and where material has been left with the County Council; confirmation of its receipt should be given in a follow up letter. Records of pre-application discussions will be made available to the Committee if requested by the Committee.
- 6.3 It is preferable that members do not take part in pre-application discussions so as to maintain impartiality. Should there be occasions when members are involved, appropriate professional advisors, including a senior planning officer will be present. The involvement of members in such discussions will be recorded as a written file record.
- 6.4 Once the application is submitted meetings between an applicant and a member or members of the determining committee will be inappropriate although exceptionally, officers may arrange site visits for members or for them to attend exhibitions and displays arranged by an applicant to inform the public. Briefings for members on more complex applications will be undertaken by officers.

7. Committee Reports and Decisions Contrary to the Officer Recommendation

- 7.1 In order for public confidence in the planning system to be maintained the public needs to be clear why decisions have been taken and the committee report should be the prime document for this. The committee report must give a clear explanation of the relevant history, ***where the matter is a planning application the*** development plan policies which are relevant to the application, and report the views of statutory consultees and other representations. ***In the case of rights of way matters, the report must also give a clear explanation of the legal tests that need to be addressed.*** The report must conclude with a firm recommendation which should be fully justified by the rest of the report. This is particularly important where the recommendation is for ***planning*** permission to be granted and the proposal is contrary to the ***Development Plan***.
- 7.2 The reasons for a decision taken by committee should be clearly minuted, particularly if it is contrary to the officer recommendation. The Nolan Report makes it clear that there is nothing intrinsically wrong in planning committees not following the advice of officers. The report emphasises

that planning is not an exact science and relies for its decisions on the balancing of competing interests. Officers will advise the **Committee** on how they feel those interests should be weighed. However, provided members take into account all material considerations and ignore all irrelevant considerations it is quite proper for them to weigh those interests differently to the officers. Provided the decision is not motivated by bad faith or is outside the County Council's powers - in which case the Director of Law and Assurance should be informed - then officers are under a duty to support the County Council's decision. If the determination of a planning application results in a public inquiry then officers are required to attend and make the best planning argument they can. If it is clear that members are going to depart from an officer recommendation, the Chairman may consider it appropriate to seek officer views on an alternative wording.

- 7.3 ~~A senior planning officer and a planning solicitor~~ **Appropriate officers** should always attend meetings at which planning applications are to be considered to ensure that planning **and rights of way** issues are properly addressed and the procedures properly followed.

8. Committee Site Visits

Planning Applications

- 8.1 Site visits may be made at the discretion of the **Committee** where the **Committee** is the determining authority **and a** record should be kept of the reason for the site visit. ~~but such visits are likely to be the exception rather than the rule.~~ A site visit may be justified where the complexity or technical aspects of the proposals or public concern at the issues raised is such that members' understanding would substantially benefit from a site visit.
- 8.2 A site visit will be organised by officers and attended by representatives of the Director of Highways, Transport and Planning and Director of Law and Assurance. The planning officer will explain the application and the planning issues associated with it and for this reason a site visit to a planning application site will take place following the publication of the Director of Highways, Transport and Planning's report to the committee.
- 8.3 An applicant and his or her planning adviser may be permitted to accompany a site visit and will generally be expected to do so in the case of minerals and waste applications on active sites where arrangements for the safety of the visitors to the site must be observed. The applicant or his adviser may answer questions **of clarification** and provide **factual** explanations to the visiting party as a whole or in groups but, in order to avoid allegations of lobbying, not to converse with members individually.

- 8.4 Where the applicant or his or her adviser is to accompany the site visit, a representative of the local parish council, the local member and a representative of each of the bodies of objectors will also be invited to attend to hear what is said and to answer **factual** questions of the visiting committee. Individual conversations with members are to be discouraged in order to ensure that all parties are treated fairly and equitably. A list of those attending the site visit will be kept by the Director of Law and Assurance.
- 8.5 A decision on an application where a site visit has taken place will be made by the **Committee** at its properly convened meeting, in public, and not be delegated to the **Committee** at a site visit.
- 8.6 Members of the **Committee** may from time to time be invited to attend site visits arranged by ~~district~~**other** planning authorities. The Director of Highways, Transport and Planning and Director of Law and Assurance will advise on the appropriateness of attending. The ~~district council's~~**relevant authority's** code of practice for the conduct of the site visit will apply.
- 8.7 Site visits may also be appropriate in the course of local plan preparation when the principles of fairness and equity will be applied. Additionally, as part of members' training, opportunities will be sought to view different types of mineral extraction sites and waste disposal **sites** ~~sties~~, so that members have an understanding of the processes and technical aspects involved.

Rights of Way

- 8.8 ***Where a rights of way application is to be considered by the Committee, individual members are encouraged to visit the site in question as members' understanding would usually substantially benefit from a site visit. Members should avoid conversations with applicants if practicable, but if it cannot be avoided, the member should ensure that they only ask questions of clarification or for factual explanations. They should then declare this to the Democratic Services Officer.***

9. Public Speaking at Planning and Rights of Way Committee

- 9.1 Standing Order 7.09 allows an individual or a number of individuals to address the Planning **and Rights of Way** Committee on a planning **or Rights of Way** application which ~~that~~ is to be considered for determination at that Committee meeting. The total time taken shall not exceed 15 minutes for objectors and 15 minutes for supporters (made up of any combination of representatives from the following groups: applicant, agent or supporters of the application). All public participation will be governed by the Protocol on Public Participation at Planning and Rights of Way Committees (attached as an Appendix).

10. Review of Planning Permissions

- ~~10.1 — At least on an annual basis, arrangements will be made for members to review a sample of implemented planning permissions in order that the quality of decisions can be assessed. Any amendments to existing policy or practice will be identified.~~
- ~~10.2 — A quarterly report will be made to the Planning Committee on the local liaison meetings on minerals extraction and processing sites and waste disposal sites.~~
- ~~10.3 — A quarterly report will be made to the Planning Committee on the decisions made by district planning authorities on which it has commented as strategic consultees in order that the quality of the consultation response can be reviewed.~~

11. Complaints and Record Keeping

- 11.1 In order that complaints can be fully investigated, record keeping on planning **and rights of way** matters will be complete and accurate. In particular, every planning application and enforcement file will contain an accurate account of events throughout its life, including a record of meetings and telephone conversations.
- 11.2 Where **an** planning application is dealt with under the delegation procedure, a complete record will be kept of the ~~planning~~ considerations taken into account in determining the application.

12. Information Disclosure

- 12.1 All consultation replies listed in the **committee** planning report together with the application documents and accompanying letters or reports submitted by the applicant constitute background papers **that** which are available for inspection and published on the County Council's website following publication of the Committee report - unless such documents contain exempt information as defined by Schedule 12A Local Government Act 1972.

13. Responding to Queries

- ~~13.1 — The planning officer who is handling the application shall respond to written queries within 10 days. A log of all telephone queries will be kept on the planning application file.~~

14. Planning and Rights of Way Application Decision Making (at Committee)

- 14.1 Written/visual material may be submitted to the Committee by individuals who have made written representations on an application. However such written/visual material must be with the Democratic Services Officer at least three clear working days before the date of the relevant Committee meeting so that the Committee can be told of the content of the material and receive considered officer advice. Any written/visual material submitted to the Committee otherwise than in

accordance with these arrangements may not be considered by the Committee.

- 14.2 The Chairman will call the Committee to order and will then introduce the Committee business.
- 14.3 The Chairman will introduce each agenda item and shall ask **officers** the ~~Director of Highways, Transport and Planning or Director of Law and Assurance~~ for additional information/clarification as appropriate.
- 14.4 Where an application falls to be determined by the Committee, the **officers** ~~Director of Highways, Transport and Planning or his or her representative~~ shall explain the application, policies, representations, **law** etc.
- 14.5 In relation to an application to be determined by the Committee the first three objectors who notify the Director of Law and Assurance that they wish to address the Committee will be allowed to **do so** ~~address the Committee~~ for a maximum of five minutes each, i.e. 15 minutes in total.
- 14.6 Three supporters of the application (~~made up of any combination of representatives from the following groups; applicant, agent or supporters of the application~~) may address the Committee for a maximum of five minutes each, i.e. 15 minutes in total. **The speakers may be any combination that represents supporters of the application (and may, for example, include the applicant and/or their agent).**
- 14.7 An objector or supporter (~~representatives from the following groups; applicant, agent or supporters of the application~~) eligible to address the Committee may exercise their right to speak through representation by another person. (e.g. planning consultant or lawyer).
- 14.8 The Chairman may request the ~~Director of Highways, Transport and Planning~~ **officers** to clarify any points raised by objectors or supporters.
- 14.9 The provisions to allow local county councillors to address the Committee will still apply, that is they may address the Committee with the Chairman's prior agreement (see paragraph 5.5).
- 14.10 The Chairman will then open the application under consideration to discussion within the Committee.
- 14.11 At the end of the discussion, the ~~representative of the Director of Law and Assurance~~ **officers** will clarify the recommendation of the report or any amendments to the recommendation. A vote will be taken and the vote recorded.
- 14.12 The applicant will be notified of the decision as soon as practicable after the Committee.
- 14.13 The individuals who address the Committee shall be entitled to comment on the draft minute of their contribution to the meeting. The draft minutes will be available as soon as practical on the County Council's website. Individuals will be notified when the unconfirmed minutes have

been posted on the website. Should they feel that the final minute is not accurate they shall be given the opportunity to make a written representation asking for a correction, which will be submitted to the next meeting of the ~~Planning~~ Committee for consideration.

15. Planning and Rights of Way Committee Disputes Procedure

- 15.1 If the Planning **and Rights of Way** Committee is minded to refuse an **planning** application under Regulation 3 of the Town and Country Planning General Regulations 1992 or grant **planning permission** ~~consent~~ subject to condition or conditions ~~which~~ **that** may be unacceptable to the relevant Cabinet Member, a disputes procedure is set out in Standing Order 7.08.
- 15.2 In such cases, the Planning **and Rights of Way** Committee will not determine the application but will indicate its decision in principle.
- 15.3 The officers of the County Council will try to overcome the objections to the proposal. If, after further investigation and discussion, they conclude that the Planning **and Rights of Way** Committee's decision is justified, the decision will be implemented. If, on the other hand, they conclude that a re-submission or modification is not appropriate because the original proposal remains the best option, or the condition or conditions in dispute impose an unreasonable demand on the implementing committee, a report will be made to the Planning **and Rights of Way** Committee.
- 15.4 In the event of the Planning **and Rights of Way** Committee sustaining its original decision, it will proceed only by way of recommendation to the County Council.
- 15.5 Any recommendation by the Planning **and Rights of Way** Committee shall include:
- 15.5.1 The full officer report to the Planning **Rights of Way** Committee including the views of the applicant Cabinet Member;
 - 15.5.2 A covering report from the Chairman of the Planning **and Rights of Way** Committee explaining the reason(s) for its refusal which had not been accepted by the applying Cabinet Member; and
 - 15.5.3 A report giving legal advice/guidance and indicating the views of other consultees, including the district council and any members of the public who have made representations at the Planning **and Rights of Way** Committee meeting considering the matter.
- 15.6 At the County Council meeting hearing the recommendation from the Planning **and Rights of Way** Committee the County Council will act as a planning authority under its statutory powers. The Chairman of the Planning **and Rights of Way** Committee shall introduce the item and the

Leader shall respond for the applicant Cabinet Member. The applicant Cabinet Member shall be treated as having a prejudicial interest and shall not participate in the debate nor vote but may remain in the Chamber. Members of the Planning **and Rights of Way** Committee shall be treated as having a personal interest.

16. Development Plan Decision Making

- 16.1 The role of the Planning **and Rights of Way** Committee is as a consultee in the preparation process which is otherwise an Executive function subject to the approval of the full County Council.
- 16.2 Comments and advice given to the Executive will be limited to the development **management** ~~control~~ functions of the Planning **and Rights of Way** Committee.
- 16.3 Where possible, such comments and advice should be produced during the **issues and options stage of** ~~deposit period of the plan~~ **preparation**.

Protocol on Public Participation at Planning and Rights of Way Committees

1. (a) **The types of planning application where public participation will be considered at the Planning and Rights of Way Committee**
 - (i) Minerals Applications
 - (ii) Waste Applications
 - (iii) Review of Mineral Planning Applications
 - (iv) Regulation 3 Applications (where this Council has applied to develop its own land either by itself or with a third party)
 - (v) Regulation 13 Applications (Listed Buildings Applications)
- (b) **The types of rights of way application/proposal where public participation will be considered at the Planning and Rights of Way Committee**
 - (i) The diversion and extinguishment of public footpaths, bridleways, byways open to all traffic and restricted byways and including the creation of footpaths, bridleways, restricted byways and permissive agreements
 - (ii) Applications for Definitive Map Modification Orders
 - (iii) Applications relating to Access Land
 - (iv) Applications relating to Commons and Town and Village Greens
 - (v) The conversion of a footpath to a cycle track
 - (vi) Gating Orders
2. **Who may address the Committee?**
 - (i) Objectors to an application/proposal
 - (ii) Supporters of an application/proposal (includes applicant, agent or supporters)

An objector or supporter (representatives from the following groups; applicant, agent or supporters of the application/ proposal) eligible to address the Committee may exercise their right to speak through representation by another person (e.g. planning consultant or lawyer).
 - (iii) The local member for an application/proposal

3. Time limits for presentations/order of speakers

- Planning or Rights of Way Officer to present the report (no time limit).
- Objectors to the application (the first three objectors to apply will be allowed five minutes each to address the Committee - details of those objectors may be given to any other objectors who wish to contact those who will be presenting objections to the Committee).
- Supporters (representatives from the following groups; applicant, agent or supporters of the application) - the first three to notify the authority will be allowed to address the Committee for five minutes each.
- The Chairman of the Committee shall be able either before or at the meeting to agree to allow additional speakers if he or she considers it necessary for proper consideration of a major or controversial issue. In doing so he or she shall take account of the need for equity. Such additional speakers will be allowed five minutes each to address the Committee.
- The local member for an application/proposal (no time limit).
- Planning or Rights of Way Officer to deal with any errors of fact or clarification of policy (no time limit).

4. Minutes of the meeting

The individuals who address the Committee shall be entitled to comment on the draft minute of their contribution to the meeting. The draft minutes will be available as soon as practical on the County Council's website. Individuals will be notified when the unconfirmed minutes have been posted on the website. Should they feel that the final minute is not accurate they shall be given the opportunity to make a written representation asking for a correction, which will be submitted to the next meeting of the Committee for consideration.

5. Circulation of written/visual material

Written/visual material must be with the Democratic Services Officer at least three clear working days before the date of the relevant Committee meeting so that the Committee can be told of the content of the material and receive considered officer advice. Written/visual material submitted to the Committee otherwise than in accordance with these arrangements may not be considered by the Committee.

Standards Committee**2 November 2020****Member Officer Relations Protocol****Report by Director of Law and Assurance****Electoral division: Not applicable**

Summary

The attached document is a draft of a proposed replacement of the Protocol on Relationships between Members and Officers which forms part of the Code of Conduct section of the Council's constitution. The revision is intended to address changes in member expectations, the need for alignment with the Council's values and plans for a new policy on respect and dignity at work. The proposal is made in the context of the good governance review covering aspects of the Council's culture.

Recommendations

- (1) That, subject to any amendments agreed by the Committee, the draft revised protocol be approved and recommended to the County Council on 11 December 2020 for inclusion in the Code of Conduct section of the Constitution.
-

Proposal**1 Background and context**

- 1.1 The Committee is responsible for ensuring the highest standards of behaviour by elected members. The Code of Conduct in the Council's constitution includes a long-established protocol which sets out the expectations for member conduct towards officers in a range of contexts. It also covers how officers are expected to behave towards elected members in any role or setting. The protocol also covers aspects of member rights and responsibilities including rights of access to information and advice from officers, including to political groups.

2 Proposal details

- 2.1 The Council embarked upon a set of actions to address aspects of how the Council functions and which touch upon the culture within the Council including all aspects of officer conduct and relations. The behavior of members in their roles and in relations with officers should also be subject to that review. This falls within the remit of this Committee which has responsibility for maintaining the highest standard of behavior by elected members in accordance with the Code of Conduct and the principles of public life.
- 2.2 The Protocol on Member Officer Relationships has long been the reference point for defining the expectations of behavior for the effective management of

Council business between officers and members. It sets out a number of expectations for member and officer conduct in all aspects of Council business and in any situation which may arise. It has not been substantively revised since the adoption of the current Code of Conduct several years ago although some updating was carried out and approved by this Committee in June 2018.

- 2.3 A proposed revision of the protocol has been prepared and is attached as an appendix to the report. It seeks to maintain all of the aims of the current protocol whilst ensuring that it is better aligned with the Council's values. As part of the wider good governance project a new 'dignity and respect at work' policy is under preparation and this has been referenced in the preparation of this draft revised protocol.
- 2.4 The Committee is asked to review the draft, make suggestions for change and agree whether to endorse the document for adoption as part of the Code of Conduct by the County Council.

3 Other options considered (and reasons for not proposing)

- 3.1 Such a protocol is considered essential to good governance and the upholding of the Council's values. A differently worded text could arise following member consideration of the draft and debate.

4 Consultation, engagement and advice

- 4.1 This Committee has the role of overseeing all aspects of member conduct to which this protocol relates. External consultation has not been undertaken although the document refers to the well-established general principles of public life

5 Finance

- 5.1 There are no revenue budget consequences.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Reputational risks and risks to effective member officer relations if no protocol in place.	An up to date and sound protocol is to be approved for immediate adoption. It will be subject to further review.

7 Policy alignment and compliance

- 7.1 The Council's public sector equality duty and its obligations to equality and diversity in the workplace have informed the draft protocol.

Tony Kershaw

Director of Law and Assurance

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Appendix – Draft Member Officer Relations Protocol

Background papers – None.

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Part 5 Section 2

Member Officer Relations Protocol – Draft New Version November 2020

Member Officer Relations Protocol

A guide to how officers and elected members should behave towards each other for the effective delivery of Council business and to ensure they uphold principles of mutual respect and trust to meet the interests of the Council and those it serves.

Good Working Relationships - Mutual Respect and Trust

1. For the effective conduct of County Council business there must be mutual respect, trust and courtesy between members and officers. Officers and members must work together constructively in accordance with the values the Council promotes as essential for a culture of mutual respect.
2. Members and officers should at all times:
 - Treat others with respect and dignity
 - Promote equality and diversity by not discriminating against any person
 - Avoid any language or behaviour which is likely to cause offence or be seen as bullying, harassing or intimidating
 - Avoid any conduct which could bring the County Council into disrepute
 - Avoid using any role or position unfairly.
3. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by asking that an officer change their professional or technical advice. Officers should understand and respect the rights and responsibilities members have as elected representatives of their community and be shown respect and support in carrying out their role.
4. Members should be aware of the collective responsibility of the officers of the County Council and should not act in any way which may undermine the trust and confidence between officers and members or prejudice the ability of officers to work collectively in the interests of the County Council.
5. Members and officers should try to give timely responses to each other's queries and show courtesy in communications.

What members can expect - information and advice – giving instructions

6. Members have the right to see information and other material held by the County Council which is relevant to the business of the County Council, depending upon the role of the member and the relevance of the material to the member's responsibilities or division. Members have a right of direct contact with officers to obtain information or advice to assist the proper discharge of their responsibilities. A summary of the rights to information is attached in the Appendix.
7. Members should always have regard to any advice from officers that any decision or proposed action may be unlawful, financially improper or contrary to the interests or values of the Council. An officer should give clear reasons for any such advice. Members have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by

the Monitoring Officer (the Director of Law and Assurance) or the Chief Financial Officer (the Director of Finance and Support Services).

8. Members should not instruct officers other than:

- when formally discharging a responsibility set out in the Constitution
- through the formal decision-making or committee process
- where officers have been specifically allocated to give support

Members should not attempt to manage or control operational matters or the line management of any officer. If an issue arises the member should raise it with the relevant senior officer in the service.

9. A member should not apply pressure on an officer either to do anything that they are not empowered to do or to undertake work outside normal duties or normal working hours, or to make inappropriate use of Council property or services. If an officer is at any time in any doubt about the propriety of any request made they should seek advice from their line manager.
10. Members may not initiate or certify financial transactions or enter into a contract in writing or orally on behalf of the County Council or direct any officer to do so. Members should not give any assurances to any person outside the County Council or make any public statement which may be interpreted as making a formal commitment on any matter where a formal decision has yet to be made.

The responsibilities of officers towards members

11. Officers manage and provide the County Council's services and take decisions in accordance with the framework of responsibilities delegated to them. This includes the management of employees, resources and operational matters.
12. Officers have a duty to implement decisions of the County Council, the Cabinet and committees which have been properly approved in accordance with the Constitution. Officers should assist and advise all members but have no duty to support members in any role other than that of member
13. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
14. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications of any matter for members of the County Council and the community they serve, or of interest to the media. Officers must be prepared to advise and support a member who needs to be briefed or informed about any matter to assist in the member's communication with residents or the media, provided the advice is technical or factual.
15. Officers should not seek to influence any member to make a decision in their favour or raise personal matters to do with their job. The County Council has procedures to enable any officer to raise a matter of personal concern

through various routes including the whistleblowing policy if the matter needs to be raised in confidence.

16. Senior officers should have or should put in place arrangements for contact by members with more junior officers to allow effective communication on specific or general matters. Senior officers should ensure that all officer colleagues staff are aware of such expectations and arrangements.

Cabinet Members and Officers

17. Cabinet Members must take decisions in accordance with the Constitution and will not otherwise direct officers. Senior officers will take guidance from cabinet members on the direction to take on a particular issue, but senior officers, rather than members are responsible for instructing junior officers.
18. Senior officers taking decisions under their delegated powers should inform the relevant cabinet member of their intentions in advance when the matter to which the decision relates is likely to be sensitive or contentious. Officers may decide not to exercise their delegated powers and ask the cabinet member to make a formal decision in such circumstances.
19. In formulating recommendations, officers should help members achieve their objectives, consistent with their technical or professional advice. In difficult or sensitive cases officers will ensure that full discussion with cabinet members has taken place before recommendations are finalised. Cabinet members will advise officers what will or will not be supported but will not direct officers in the framing of recommendations and should always give reasons for not accepting the recommendations of officers.
20. A cabinet member intending to make a decision about a matter in his or her portfolio should ensure that other members and senior officers who need to know of the matter are informed, particularly on issues of joint responsibility or mutual interest, and in appropriate cases to brief the whole Cabinet.

Committee Members and Officers

21. Chairmen and vice-chairmen of committees shall maintain regular contact with the officer(s) providing the principal support to their committee both in Democratic Services and in relevant service directorates. In consultation with chairmen, those officers must ensure that those who need to know of matters being considered or planned for future consideration are so informed and help with briefings and advice in preparation for committee meetings.
22. A committee, or its chairman acting on its behalf, may require officers to attend meetings. Members should not normally expect junior officers to attend unless agreed by the relevant senior officer. All requests should be made to senior officers in the first instance. When making requests for officer attendance or for advice or briefings, committee members shall have

regard to the workload and commitments of officers and other calls on their time.

23. Officers should be prepared to explain to a committee any decision they have taken under delegated powers or any other actions taken or yet to be taken in relation to business before the committee.
24. In giving advice to the committee, officers should not be asked to give political views, and should not make comments upon the line taken by Cabinet or a cabinet member or other decision maker unless giving legal, technical or other professional advice about the matter.
25. Members should not question officers or behave in any way which could be reasonably be interpreted as harassment or disrespectful. Members should not question the capability or competence of officers at meetings. Committee members, in reviewing the policies and performance of the County Council and its services, shall not appraise the personal performance of officers.
26. Members of a committee may only take decisions within the remit of that committee and should not otherwise instruct officers to act. A resolution may be passed at a committee which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no power to take decisions on behalf of a committee or panel.

Keeping members informed on local issues

27. To enable them to carry out their local representation role effectively, members need to be fully informed about matters affecting their electoral division before others and always before the County Council makes public announcements. Senior officers must ensure that all officers are aware of the requirement to keep local members informed. Members are in many cases the first point of contact, especially if local people, stakeholders or other community groups are concerned about an issue or need to know what is going on or want a problem dealt with.
28. This requirement is particularly important in the following cases:

Changes to services provided directly or indirectly such as:

- changes to opening hours/admission arrangements
- changes to the type of service provided
- introduction of or changes to fees and charges
- closures, partial, temporary or permanent
- highways works
- changes to 'catchment' areas/service areas
- changes to financial support or assistance to a local group or business
- communications with parish, town, district or borough councils

Where the County Council is taking decisions on:

- planning applications
- traffic management

Controversial issues such as:

- planning applications or advice to such applications

- where a local campaign is developing
 - a response to press or media enquiry about a local issue
 - where the local MP has become involved
 - formal complaints about County Council services locally
 - concerns about the performance of a County Council service locally, especially where externally assessed
29. A member may reasonably request sight of any communication by or with the Council on a matter of local interest, provided this is not personal information which may breach data protection principles. Correspondence with other councils or MPs should be made available as should any internal communications about the matter. If a member has a reasonable interest in the progress of any matter the officer involved should keep the member informed about or copied into correspondence.
30. Whenever a public meeting is organised by the County Council to consider a local issue, all the members representing the divisions affected should be invited to attend the meeting as a matter of course. Invitations to other events, such as opening ceremonies shall be in accordance with the protocol for such events.
31. If a local member intends to arrange a public or other meeting about council business, he or she should inform the relevant senior officer. Provided the meeting has not been arranged on a party political basis and the subject matter concerns some aspect of the County Council's work:
- an officer may attend but is not obliged to do so; and
 - the meeting may be held in County Council premises.
32. No such meetings should be arranged or held in the immediate run-up to County Council or other elections. Officers and members should be familiar with guidance on meetings and publicity at such times.
33. While support for members' divisional work is legitimate, care should be taken if staff are asked to accompany members to ward surgeries. In such circumstances:
- the surgeries must be open to the general public; and
 - officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.

Political Groups and political matters - role of officers

34. Officers should never be asked to attend and should not attend division or constituency political party meetings.
35. It is acknowledged that some County Council staff (e.g. those providing dedicated support to Cabinet Members) may receive and handle messages for members on topics unrelated to the business of the County Council. Support should be given to assist diary management but care should be

taken to avoid officers or other resources being used for private or party political purposes.

36. Most elected members belong to political groups and will wish to be able to receive advice in confidence, without the presence of members of other political groups. Senior officers may properly be asked to advise group discussions on matters concerning County Council business.
37. Officers have the right to refuse such requests and should not attend a meeting of a political group where some of those attending are not members of the County Council. An officer accepting an invitation to the meeting of one political group shall not decline an invitation to advise another group about the same matter. The duration of an officer's attendance at a political group meeting will be at the discretion of the group, but an officer may leave at any time if he or she feels it is no longer appropriate to be there
38. Officer advice will not extend beyond providing factual information or professional advice in relation to matters of County Council business. Officers must not be involved in advising on matters of party business, and therefore should not be present at meetings or parts of meetings when such matters are to be discussed. Examples of cases where officers may be legitimately asked to attend a group meeting are:
 - on significant policy changes or proposals by the government or the County Council or the implications of new legislation;
 - matters affecting the County Council's budget or budget plans
 - where technical advice previously given needs to be explained
 - to give procedural or technical advice on a matter scheduled for consideration at a meeting of the County Council.
39. Political group meetings are not empowered to make decisions on behalf of the County Council, and conclusions reached at such meetings do not amount to formal decisions. The presence of an officer confers no formal status on such meetings. Members should take care to ensure that they do not convey the impression at group meetings that minds have been made up or that final decisions have been taken on council business.
40. Where officers provide factual information and advice to a political group in relation to a matter of County Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the County Council.
41. Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by the group, will not relay the content of such discussions to another political group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
42. Members must not do anything which compromises or is likely to compromise any officer's impartiality. An officer should be given the

opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.

43. Members should not refer in public or at meetings of the County Council to advice or information given by officers to a political group meeting.
44. At political group meetings where some of those present are not members of the County Council, care must be taken not to divulge confidential information relating to County Council business. Such persons are not bound by the members' Code of Conduct. They do not have the same rights to County Council information as do such members.
45. Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Director of Law and Assurance and the relevant group leader.

Familiarity and Personal Relationships

46. Informal and collaborative working between members and officers is to be encouraged. Close personal familiarity between individual members and officers can damage the principle of mutual respect. Familiarity could cause embarrassment to other members and/or other officers and give rise to suspicions of favouritism or conflicts of interest and must be avoided.
47. It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Members should advise their group leader of such relationships. Officers should advise their line manager of such relationships. Where a close personal relationship exists, those concerned should avoid a situation where any conflict of interests or impropriety could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

Dealing with problems or issues between officers and members

48. If any member feels that they have not been treated with due respect and courtesy by an officer or that an officer has acted not in accordance with this protocol, they may raise the matter with the individual's line manager, head of service, director, executive director or the Chief Executive as appropriate. The Director of Law and Assurance can be asked by the officer or member to advise on the rights responsibilities and expectations referred to in this protocol.
49. It is preferable however for the member first to raise their concern direct with the officer concerned, to explain their position and to seek to resolve the issue informally. A referral to a more senior officer should also lead to an informal resolution wherever possible. Such problems should not be raised as formal complaints and escalated unnecessarily. Any more formal actions will be processed within the relevant employment procedures. The member and

the officer will be kept informed of progress with the complaint and the action to be taken. Members do not have any power to discipline any officer.

50. Where any officers feel that a member has acted in breach of this Protocol, or has otherwise not been shown due respect and courtesy by any member, they should raise the matter with their line manager, head of service, director, executive director or the Chief Executive or Director of Law and Assurance as appropriate.
51. The officer should however, in the first instance, discuss the matter with the member concerned and seek to resolve the problem informally. The officer can ask their line manager or other senior officer to assist with any informal resolution. If this is not successful the senior officer consulted will take appropriate action either by approaching the Chief Executive or Director of Law and Assurance or, if appropriate, the member's Group Leader – again with a view to resolve the issue informally. The member concerned should be informed of any such referral or complaint and should be advised of any recommended action resulting. If it is felt that the member Code of Conduct may have been breached then the procedures relating to the Code should be used.
52. In any action to seek to resolve any dispute or matter of concern between an officer and a member they should continue to treat each other with respect and dignity and any action shall be taken fairly and with the full involvement of the officer and the member concerned.

Members' Rights to Information

All members have a right of access to all material in the possession of the County Council if it is established that access is required on a 'need to know' basis - meaning that, in order to discharge any specific responsibility or role of a member it is necessary to have access to a particular document or piece of information and that (in the case of draft or incomplete documents) this need cannot await the planned later publication or availability.

All members will have specific rights to information which forms part of the business of the County Council and, in particular, documents relating to meetings of the County Council including reports, agendas and minutes of committees and other meetings and in accordance with the timescales prescribed and subject to exceptions which relate to confidential information or material which is covered by a statutory exemption or commercial sensitivity of a third party. Members may be supplied with such documents on condition of maintaining confidentiality where this does not give rise to a breach of personal data principles or contractual duty.

Members have the right of access to any document relating to the business of a public meeting and also the business of any private meeting, subject to the same exemptions as above and only in the case of a private meeting once it has ended.

Members of a committee have the right of access to any documents relating to the business of that committee, whether discussed at a public or private meeting and will also be able to see documents covered by exemptions or rules of confidentiality provided the material is the subject of the committee's work programme.

The list of exempt information is detailed in the Constitution (Standing Order 4.28) and guidance on decision-making. The list takes account of the presumption of a right of public access to all material set out in the Freedom of Information Act 2000, but this is subject to specific exemptions concerning personal data (confidential to any individual person) or commercially sensitive or confidential information or any information whose disclosure may prejudice legal or similar enforcement procedures or, exceptionally, prejudice the conduct of the County Council's proceedings.

The law on data protection allows personal data to be disclosed to elected members without having to obtain the consent of the data subject, where disclosure is necessary for the member to carry out their official duties. As a major part of a member's role is to represent the interests of the local community and individuals, there should be no reason why members should not have access to some personal information held by the County Council but there will be restrictions on what they can do with it. If in doubt, you should contact Legal Services for advice.

Members are required by the Code of Conduct not to breach confidentiality. Therefore, the fact that an issue is confidential does not in itself prevent the sharing of it with the local member, but the confidentiality and need to avoid further distribution must be made clear to the member.

Exceptions:

- Where the issue is about the provision of a service to the individual or a dependent, unless the individual or person in receipt of the service has expressly asked for the involvement of the local member and has agreed that personal information can be shared, or where the information is already public, in the press or media;
- Where it involves the personal circumstances of a member of staff;
- Politically sensitive issues such as communication with Members of Parliament, the Government, Local Government Association etc. on provisional or early draft proposals; and
- Matters under early discussion with Cabinet Members.

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Standards Committee**2 November 2020****Standards Best Practice Report****Report by Director of Law and Assurance****Electoral division: Not applicable**

Summary

The Committee for Standards in Public Life has asked the County Council to outline how it meets published best practice guidance. The response attached as the appendix was sent in October 2020.

Recommendations

- (1) That the response to the Committee on Standards in Public Life be noted.
-

Proposal**1 Background and context**

- 1.1 In January 2019 the Committee for Standards in Public Life published a report on Local Government Ethical Standards. It identified some best practice recommendations to improve ethical standards in local government which it would expect every local authority to implement.
- 1.2 The Standards Committee considered the report at its meeting in March 2019 and supported the best practice recommendations, noting that most were already in place at the County Council. It asked the Director of Law and Assurance to consider ways to make changes to two areas of practice to ensure that the County Council complied with the best practice.
- 1.3 In July 2019 the Committee agreed to make two changes to the Standards regime to comply with the best practice. The first was to add an explicit sentence to the Code of Conduct form to make it clear that the member submitting the form is also signing up to the Code of Conduct. This will be implemented in May 2021, following the County Council elections.
- 1.4 The second change was to include a specific statement in the County Council's Annual Governance Statement about separate bodies which the County Council owns and has set up, including confirmation that they are abiding by the Nolan principles of openness and publish their board agendas, minutes and annual reports in an accessible place.

2 Proposal details

Agenda Item 8

- 2.1 The Chairman of the Committee for Standards in Public Life sent a survey to local authorities in September 2020 to ask them to set out how well they comply with the published best practice.
- 2.2 The County Council is generally compliant with the best practice standards and the appendix sets out the response to the survey.

3 Other options considered (and reasons for not proposing)

- 3.1 Not applicable.

4 Consultation, engagement and advice

- 4.1 Not applicable.

5 Finance

- 5.1 There are no revenue budget consequences.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Reputational risks and risks to decision-making through members not maintaining high standards.	Implementing the changes in July 2019 meant that the County Council is generally compliant with the Committee for Standards in Public Life's best practice, assisting the Committee in its role to promote high standards of conduct.

7 Policy alignment and compliance

- 7.1 The County Council's code of conduct is aligned to the published best practice, which gives assurance that it is fit for purpose.

Tony Kershaw

Director of Law and Assurance

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Appendices – Response from the Director of Law and Assurance to the Committee for Standards in Public Life's survey, October 2020.

Background papers – None.

CSPL local government ethical standards 15 best practice recommendations

1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Progress: The code of conduct prohibits bullying and intimidation. More detailed definitions of bullying and harassment are contained in the Council's Equalities Policy.

2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Progress: The code of conduct requires councillors to comply with it, including any investigations.

3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Progress: The effectiveness of the code of conduct is considered as part of the Standards Committee's Annual Report to the County Council

4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Progress: Yes, in place.

5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Progress: Yes, in place

6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Progress: Yes, in place, at the discretion of the Monitoring Officer

7: Local authorities should have access to at least two Independent Persons.

Progress: Yes, in place

8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Progress: Yes, in place

9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Progress: The Sub-Committee that makes the decision has the discretion as to whether or not a decision notice should be published.

10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Progress: Yes, a straightforward guide is in place on the website. Individuals who submit a complaint will be given an estimated timescale.

11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Progress: Not applicable to a County Council

12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Progress: Not applicable to County Councils.

13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Progress: Yes, in place. Different members of staff from Legal Services can be involved as necessary.

14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Progress:
Yes, in place

15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

Progress:
Meetings are ad hoc, as required.

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**Key decision: Not applicable
Unrestricted**

Standards Committee

2 November 2020

Whistleblowing Policy (Confidential Reporting Policy)

Report by Director of Law and Assurance

Electoral division: Not applicable

Summary

The Committee is responsible for oversight of the use and effectiveness of the Council's whistleblowing policy (formerly the Confidential Reporting Policy). The Committee last saw a report on this matter in July 2019 when it received a summary of matters dealt with by reference to the policy.

This report covers the activity generated by referrals made by reference to the policy since that last report and provides the Committee with an opportunity to understand the scope and nature of referrals that are made.

The report also covers the recent revision and renaming of the policy approved by Governance Committee in July 2020 in the context of the Council's 'good governance' activity.

Recommendations

- (1) To note the activity generated by referrals made pursuant to the Council's Whistleblowing Policy.
 - (2) To endorse the actions being taken following the recent revision.
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Proposal

1 Background and context

- 1.1 The County Council's whistleblowing policy is one of the ways it meets its obligation as an employer to make provision for an officer to report concerns about any aspect of Council business on a confidential basis. This is in accordance with the Public Interest Disclosure Act 1998. It enables members of staff to access a process that guarantees personal confidentiality and protection from adverse treatment (e.g. disciplinary action) as a result of any complaint made in good faith.
- 1.2 The policy extends to staff working for suppliers and contractors of the County Council. The policy is also applicable to schools and any referrals from or about school settings are dealt with under the same procedures.

- 1.3 The role of this Committee is to provide a forum for member awareness and assurance in relation to the Council's approach to whistleblowing and how the Council responds to issues raised by whistleblowing investigations

2 Activity since July 2019

- 2.1 During the period since the Committee last considered activity under the policy there has been a small number of complaints raised by reference to it. These have arisen in one school, one in relation to the use of corporate resources and one in the area of children's social care. The one school referral related to alleged financial poor practice. The social care complaint related to a number of concerns over management practices within a residential setting. The complaint relating to corporate resources covered a number of complaints about how the Council learned from a project focused on service and corporate preparation for a significant event and its consequences. All investigations were completed and relevant actions followed up.
- 2.2 The one referral raising financial concerns within a school was referred to internal audit for follow up as part of their standard inspections. The others were allocated to experienced senior officers for investigation. For the purpose of this report the Committee can be assured that the whistleblowing policy has been exercised and followed through effectively in terms of such complaints being taken seriously, addressed thoroughly and brought to some form of outcome. There are some actions remaining to be carried through in relation to the children's social care complaint.
- 2.3 There is no concern in relation to these complaints that the confidentiality of the complainant has been compromised but, in relation to one case, a concern was raised that a senior officer to whom the complaint was first presented was resistant to its investigation, the complainant then referring the matter to the Monitoring Officer. The unsatisfactory initial response was added to the scope of the subsequent investigation. The senior officer in question had left the Council before the investigation was concluded but an apology was made to the complainant for the non-compliance with the aims and principles of the whistleblowing policy.
- 2.4 In the area of children's residential social care the complaint related to a single establishment and covered aspects of management conduct and staff relations rather than operational practice or safeguarding affecting children or young people. The nature of the complaint is known to Ofsted through a separate referral. The investigation was constrained by limited evidence or corroboration but certain elements of management practice have been referred for operational review by the relevant service leads. It is not a concern that these extend to other establishments or areas of practice.
- 2.5 The table below summarises the matters that have been referred during this period July 2019-July 2020:

Table 1 - Summary of Cases

Case	source	service	Concern	action
1	Officer in service	school	Financial impropriety	Investigation referred to audit and report prepared.

			relating to contracts	
2	Officers in service	Children's Social Care	Aspects of service management and staff relations	Investigation completed and aspects for further action identified.
3	Officer in service	Corporate resources	Management practices and learning	Investigation completed and findings reported to complainant. Most complaints not found proven but reasonably raised. Apology for initial response to complaint

3 Consultation, engagement and advice

- 3.1 As part of the work to address and reset aspects of the culture of the Council and its governance and how all working arrangements are seen to serve the interests and priorities of the Council a review of the whistleblowing policy was undertaken. This was undertaken with the involvement with a range of service leads, with UNISON and an external consultancy with expertise in this area. The revised policy (renamed from the former 'Confidential Reporting Policy') was then reported to the July meeting of the Governance Committee and received approval. The changes focused on making the policy more readable and accessible and in giving more practical assistance to officers wishing to raise concerns.
- 3.2 Following its endorsement a simple plan for dissemination, awareness raising and promotion of the policy has been prepared. It will also require work to ensure the officers who are expected to respond to and deal with investigations and issues raised under the policy's procedures have the tools skills and knowledge to deal with them appropriately. That activity has yet to be rolled out but will be undertaken in liaison with the Council's learning and development team.

4 Finance

- 4.1 There are no revenue budget consequences. Investigations are largely undertaken by Council staff and internal audit officers. These will not have incurred additional costs.

5 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
That the Whistleblowing policy is not effective,	It is important that the Council's whistleblowing policy is effective if the Council is to be confident in the proper investigation of concerns about poor

Risk	Mitigating Action (in place or planned)
causing financial and reputational risks.	business practice and in protecting those who wish to express concerns about misconduct or impropriety. The financial and reputational risks to the Council from failing to provide a route for individuals to express concerns in confidence are recognised. It is equally important to provide the forum of this committee to ensure that members have assurance as to the effective operation of the policy and its active review.

6 Policy alignment and compliance

- 7.1 The whistleblowing policy forms one element of the Council's range of systems to reduce crime, to ensure compliance with the public sector equality duty and with the Human Rights Act. Accessibility for all persons with protected characteristics must however be assured in the context of the implementation of the policy and this aspect will be given particular consideration in light of the action set out at paragraph 3.2 above

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Appendix – None.

Background papers – None.