

Report to Overview and Scrutiny

Date of meeting: 23 March 2014

**Subject: Amendments to the Council's
Complaints Scheme**

Officer contact for further information:
J.Filby (Complaints Officer)

Committee Secretary: A Hendry



Recommendation:

That a report be made to Council recommending:

- (1) That Step 4 reviews of complaints by the Member Complaints Panel be discontinued;**
- (2) That consequent on the approval of recommendation (1) above:**
 - (i) The provisions relating to the Complaints Panel contained within the Constitution be removed; and**
 - (ii) The Appointments Panel be advised that nominations to the Complaints Panel will no longer be required.**

Report (Chairman of Constitution and Member Services Scrutiny Panel).

The Council's complaints scheme currently has four stages. The investigation of a complaint at each stage is undertaken by the following:

Step 1 - Manager of the service area concerned.

For example: Benefits Manager; Housing Options Manager, Principal Planning Officer, Waste Manager.

Step 2 - Director, or more usually, an Asst. Director.

Step 3 - Complaints Officer on behalf of the Director of Governance (responsible for the Compliments and Complaints scheme) and the Chief Executive.

Step 4 - Member Complaints Panel

The Local Government Ombudsman has previously expressed surprise that EFDC has a four stage complaints procedure. No other Councils in Essex, and virtually no other Councils across the country, have as many stages or offer a final review by Members.

However, the last Step 4 review by EFDC's Member Complaints Panel was back in 2007, eight years ago. There is a good reason why no Step 4 reviews by Members have been undertaken since then and also why none are foreseen for the future.

In 2006, the Local Government Ombudsman introduced what has become known as the *12 week rule*.

The Ombudsman takes the view that Councils should be able to complete **every** stage in their own complaints procedure within 12 weeks of their first receipt of the complaint. If a Council is unable to do so, the complainant has the right to bypass any remaining stages in the Council's complaints procedure and instead take their complaint to the Ombudsman.

However, the current design of EFDC's complaints procedure makes it impossible to complete all four stages within 12 weeks for the following reasons.

Investigations at Steps 1, 2 and 3 usually each take around 3 - 4 weeks to complete. So, by the time a Step 3 review has been completed, the 12 week time limit is already fast approaching. But if a complainant remains dissatisfied and requests a further review, it takes a further 7 - 8 weeks to organise a meeting of the Step 4 Member Complaints Panel as illustrated below:

Time required	Action required
1 week	On formal closure of the Step 3 investigation, the complainant first of all has to be notified that they now have a further three weeks in which to submit their written statement for consideration by the Step 4 Complaints Panel
3 weeks	Time allowed for complainant to submit their written statement.
Up to 2 weeks	Required by officers to prepare the Council's response to the complainant's statement once received.
1 week	For agenda preparation, printing and circulation.
1 week	The agenda pack has to be received by all who will be attending at least one week before the Step 4 meeting.

It has therefore become routine that complainants have to be advised that, because it will not be possible to offer them a Step 4 review within the 12 week time limit, they now have the right to bypass Step 4 and instead take their complaint to the Ombudsman. Unsurprisingly, all complainants since 2007 who wanted a further review of their complaint upon completion of the investigation at Step 3 decided to exercise that right. Consequently, there has been no requirement for the Step 4 Panel to meet during the last eight years.

There is no indication that the Ombudsman will either remove or relax the 12 week rule so it is anticipated the above position will continue. The Step 4 Complaints Panel would therefore continue to exist in name but have no actual function to fulfil.

If members agree to the removal of the Step 4 Panel, consequential amendments will be required of the Constitution. It is therefore appropriate that this is reported to full Council at its April 2015 meeting in order that changes can be taken into account by the Appointments Panel in May 2015.

Options considered and rejected:

1. Discontinue either Step 1 or Step 2 or Step 3 reviews but retain a final review by the Member Complaints Panel.

Rejected as this would not resolve the "12 week time limit" problem for completing the investigation of a complaint because whichever two of these three stages (Steps 1, 2 or 3) were retained would still require a total of around 8 weeks to complete. That would still not leave the further 7-8 weeks needed to then organise a Complaints Panel review before the 12 week time limit expires.

2. Discontinue Steps 2 and 3 to leave only one review by officers plus a final review by Members.

Rejected Around 350- 400 complaints are received by the Council every year. The vast majority are concluded at Step1 - only around 40 progress to Step 2/3. But discontinuing Steps 2 and 3 would mean the only review would then be by service managers. The Asst

Directors and Directors (who currently deal with complaints at Step 2) and the Complaints Officer (who currently deals with complaints at Step 3) would have no input at all which is considered to be a very high risk strategy.

The only officer review of a complaint could not be undertaken by either Asst. Directors / Directors or by the Complaints Officer as they certainly do not have the capacity to deal with all the 350-400 complaints currently considered by the service managers at Step 1 each year.

Whilst a single review by service managers with a final review by Members could just about be achieved within the 12 week time limit, this would mean the Member Complaints Panel having to potentially meet anything up to 40 times a year (it would not be practical to try and consider more than one complaint at each meeting) in order to deal with all those complaints where the complainant has asked for a further review.

Consultation undertaken:

The Local Government Ombudsman, the Council's Management Board and Leadership Team all support the recommendation.

Resource implications:

Budget provision: None

Personnel: None

Land: None.

Community Plan/BVPP reference: None

Relevant statutory powers: None

Background papers:

Environmental - None

Human Rights Act - complainants have a final right of review of their complaint by, depending on the nature of the complaint, either the Local Government Ombudsman or the Housing Ombudsman.

Crime and Disorder Act- None:

Key Decision reference: None