

Scottish Parliament Region: South of Scotland

Case 200600661: Dumfries and Galloway Council

Summary of Investigation

Category

Local government: Complaints Handling

Overview

The complainant (Mr C) alleged that Dumfries and Galloway Council (the Council) had failed to handle a number of his complaints in line with their Complaints Procedure.

Specific complaint and conclusion

The complaint which has been investigated is that the Council failed to handle Mr C's complaints in line with the Complaints Procedure (*not upheld*).

Redress and recommendations

The Ombudsman recommends that the Council consider whether or not to invoke their Unacceptable Actions Policy against Mr C, given that his communication approach has significantly contributed to the problems around the handling of his complaints.

One of the reasons for the Council to invoke the policy is that they must consider whether or not their current handling of Mr C's complaints represents a good use of public resources. If action was to be taken to more effectively manage Mr C's correspondence, I believe that would be a strong case to show that the Council are taking into consideration the principles of 'Best Value'. The Council have to seriously consider whether or not their management of Mr C's complaints and correspondence is an effective use of public resource.

Main Investigation Report

Introduction

1. The complainant shall be referred to as Mr C. On 1 June 2006, Mr C lodged his complaint with the Ombudsman's office. Mr C also demonstrated that he had exhausted the Complaints Procedure of Dumfries and Galloway Council (the Council). The complaint, therefore, was eligible for investigation by the Ombudsman. Mr C's complaint was that a number of complaints he had raised with the Council were not treated in accordance with their Complaints Procedure. He claimed that the Council failed to respond within publicised timeframes when handling his complaint.

2. The complaint from Mr C which I have investigated is that the Council failed to handle Mr C's complaints in line with the Complaints Procedure.

Investigation

3. My investigation involved reviewing relevant Council procedures and policies (see paragraphs 5 and 6) and the correspondence between the Council and Mr C regarding the complaint. I obtained evidence from Mr C and made a written enquiry of the Council.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

5. The Council's Complaints Procedure includes the following:

'Step 1 – Informal Complaints

If you are unhappy with the service you have received, please do the following:

Contact the closest local office of the Council (Customer Service Centre).

Briefly explain your concern and ask to speak to a member of staff who can help you.

...

We can usually solve problems quickly and easily at this stage. However, if you are still unhappy with our service, or you are not satisfied with our response at step 1, you can go on to make a formal complaint at step 2.

Step 2 – Formal Complaints

Please provide details of your complaint (include any relevant dates, times and locations) ...

Within five working days of receiving your complaint we will confirm that we are looking into the matter.

We will send you a detailed reply to your complaint within 20 working days of sending you our acknowledgement.'

6. The Scottish Public Services Ombudsman has an Unacceptable Actions Policy similar to that of the Council which includes the following:

'Defining Unacceptable Actions

It is understood that people may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading to a complaint being made. The Council does not view behaviour as unacceptable just because a claimant is forceful or determined. It is accepted that being persistent can be a positive advantage when pursuing a complaint.

The actions, however, of individuals who are angry, demanding or persistent may result in unreasonable demands on Council staff and resources. It is these actions that the Council considers unacceptable and aims to manage under this Policy. Complaints and complainants may be deemed vexatious where previous or current contacts with the individual show that they meet one or more of the following criteria:

Aggressive or Abusive Behaviour;

Unreasonable demands; and

Unreasonable Persistence.

There are relatively few individuals whose actions the Council would consider unacceptable. How the Council aims to manage these actions depends on their nature and extent. If it adversely affects the ability to do work and provide a service to others, the Council may need to restrict complainant contact with its services in order to manage the unacceptable action. The Council aims to do this in a way, wherever possible, that allows a complaint to progress to completion through the Complaints Process. The Council may restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. The Council will aim to maintain at least one form of contact. In extreme situations, the Council will advise the complainant in writing that their name is on a 'no personal

contact' list. This means that they must restrict contact with Council services to either written communication or through a third party.'

7. The unacceptable actions policy has not been invoked in respect of Mr C.

Complaint: The Council failed to handle Mr C's complaints in line with the Complaints Procedure

8. Mr C has an extensive history in terms of communication and complaints raised with the Council over recent years regarding a number of different issues, as demonstrated by the evidence available to me. The correspondence I have assessed in relation to this specific complaint has been of a considerable volume with at least 50 separate pieces of correspondence between the Council and Mr C over a four month period.

9. Not all of Mr C's complaints have been acknowledged or answered within the timescales specified in the Complaints Procedure. In most, if not all cases the Council have apologised for this and explained why delays have occurred.

10. I have seen that it was not uncommon for Mr C to submit a significant number of letters and/or emails on the same date. On one particular day, Mr C submitted four separate letters of complaint. This type of communication approach has, occasionally, proved to be problematic for the Council in terms of managing and responding to multiple complaints, which sometimes are closely related and poorly referenced.

11. Due to the volume of correspondence I consider that it is important that I also address other reasons which I believe have contributed to this service failure. Due to the volume of correspondence created by Mr C's complaints, the Council have adopted the strategy of having one member of staff, the Group Manager of Corporate Support and Governance (Officer 1), as the point of contact for Mr C's complaints. Essentially, this means that Mr C's complaints are dealt with by Officer 1. This measure was taken by the Council in an attempt to effectively manage Mr C's complaints.

12. I also note that Mr C hand-delivered some of his complaints to his local office. I have seen no evidence to suggest that in doing so he was seeking to have his complaints considered under step 1 of the Council's Complaints Procedure. Rather, he seems to have wanted these complaints to be considered under step 2 of the Complaints Procedure (that is, given the

arrangements adopted by the Council for dealing with his complaints, by Officer 1 – who is based in the Council's offices in Dumfries, not in Mr C's local office). The evidence shows that Mr C is aware that by delivering his letters in person to the local office, a delay in the acknowledgement and handling of the letters would be probable, yet Mr C still complained that his letters were not being acknowledged within the stipulations of the Complaints Procedure. The Council have informed Mr C that he should send his letters of complaint directly to Officer 1 by Royal Mail, as this would allow Officer 1 to receive the letters more quickly than through the internal mail system that the Council operates. It is clear from the evidence available to me that Mr C has refused to follow the Council's advice.

13. Finally, I note that Mr C's complaints were often brief and incoherently presented and to that extent did not 'provide details ... include[ing] any relevant dates, times and locations' as requested by the Council's Complaints Procedure in respect of step 2 Complaints.

Conclusion

14. In terms of the Scottish Public Services Ombudsman Act 2002 the issues I have to consider in reaching my conclusion are whether there was maladministration or service failure on the part of the Council and if so whether that caused injustice or hardship to Mr C.

15. There were a number of instances where the Council failed to acknowledge Mr C's complaints, or to provide a substantive response to them, within the timescale stipulated in the Complaints Procedure. However, given the volume of Mr C's complaints and the way in which they were presented; and taking account of the fact that generally the Council explained why delays occurred, I do not consider that there was any maladministration or service failure by them in dealing with Mr C's complaints. I, therefore, do not uphold Mr C's complaint to the Ombudsman.

Recommendations

16. Given that I have not upheld Mr C's complaint I need to explain why I am nevertheless making recommendations to the Council. The context in which I do so is the widely recognised concern about the impact that unreasonable actions on the part of complainants can have. For example, the English Local Government Ombudsman's guidance note on unreasonably persistent complainants and unreasonable complainant behaviour states:

'Generally, dealing with a complaint is a straight-forward process, but in a minority of cases people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for authorities.'

17. While the Ombudsman in New South Wales, Australia has commented:
'It must be emphasised that the mere fact that a complainant is persistent, makes demands, or may be angry does not mean that their conduct is unreasonable in most circumstances. Unreasonableness requires the conduct to go beyond the norm of situational stress that many complainants experience and only a very small percentage of complainants display such unreasonable conduct, nevertheless, dealing with them consumes a disproportionate amount of resources.

... Such conduct must be dealt with by staff who are well trained, resourced and supported by endorsed official policies and detailed guidelines so that they can confidently make decisions in their interaction with complainants whose behaviour is difficult ... to minimise the effect of unreasonable complainant conduct on the process of complaint handling and resource management, thus ensuring equity across all complaints handled ...'

18. I consider that the way in which Mr C has pursued his complaints meets the definitions of 'unreasonable' quoted in the last paragraph. It is in that context that the Ombudsman recommends that the Council consider whether or not to invoke their Unacceptable Actions Policy against Mr C, given that his communication approach has significantly contributed to the problems around the handling of his complaints. One of the reasons for the Council to invoke the policy is that they must consider whether or not their current handling of Mr C's complaints represents a good use of public resources. If action was to be taken to more effectively manage Mr C's correspondence, I believe that would be a strong case to show that the Council are taking into consideration the principles of 'Best Value'. The Council have to seriously consider whether or not their management of Mr C's complaints and correspondence is an effective use of public resource.

19. The Ombudsman asks that the Council notify her when the recommendation has been implemented.

19 December 2007

Explanation of abbreviations used

Mr C	The complainant
The Council	Dumfries and Galloway Council
Officer 1	Group Manager of Corporate Support and Governance