

report



meeting	STANDARDS COMMITTEE	
date	16 MARCH 2010	agenda item number 4

REPORT OF THE MONITORING OFFICER

MALADMINISTRATION PAYMENTS

Purpose of the Report

1. To advise Members on the operation of the County Council's Maladministration Policy (**Policy**) during the reporting period April 2008 to March 2009.

Information and Advice

2. By virtue of Section 92 of the Local Government Act 2000 the County Council may if it thinks appropriate make a payment, or provide some other form of benefit, to a person if it is considered that action taken by or on behalf of the authority in the exercise of their functions amounts to, or may amount to maladministration and that a person has been or may have been adversely affected by that action.
3. This provision gives the County Council the power to resolve complaints where the only appropriate remedy is payment or some other form of benefit. This saves the time and trouble for all parties in referring the matter to the Local Government Ombudsman (**LGO**). Only if the matter cannot be resolved to the satisfaction of the complainant will it need to be referred to the Ombudsman.
4. The County Council first adopted a maladministration policy in 2002. On 10th June 2008 the Standards Committee reviewed proposed changes to the Policy, and recommended their adoption to Full Council. Full Council adopted the revised Policy on 11th September 2008.
5. No amendments to the Policy are required at the present time, apart from some minor updates as follows:
 - a. All references to Strategic Director to be changed to Corporate Director
 - b. Paragraph 11, which refers to offers of payment following stage 3 of the complaints procedure, to be re-worded to recognise that due to

changes in legislation the Adult Social Care and Health complaints procedure no longer has a “stage 3”

6. Payments totalling £11,000 have been made under the Policy between April 2008 and March 2009. The County Council takes into consideration guidance from the LGO in respect of payments and seeks to be consistent in respect of the level of payments offered by considering payments made in similar cases decided upon locally and those reported upon by the LGO.
7. In the period 2008-2009 there was one payment made under the Policy as a result of maladministration in respect of the Adult Social Care and Health department’s services:
 - a. A sum of £10,000 was paid to an elderly service user in recognition of the failure of the department to provide appropriate care within one of its residential care homes and a smaller additional sum of £1000 was paid to the relative who brought the complaint for time and trouble. The complainant accepted the offer. A number of recommendations were made by the review panel which are being implemented to help prevent an occurrence of a similar case in the future.
8. In the period 2008-2009 there was one case where payment was offered under the Policy as a result of a finding of maladministration in respect of the Children and Young Persons department’s services:
 - a. A stage 3 panel recommended that a payment of £400 be offered in respect of a finding of maladministration in addition an offer of £1,837 was made in respect of re-imburement of direct payments. There had been a failure to implement a service which the child was assessed as needing. There was also found to have been some stress and anxiety for the Child’s parent (complainant) in pursuing the matter. A number of recommendations were made by the panel and a review was undertaken where some alterations to the way such cases are handled to prevent further complaints arising in the future. The recommendations are currently being implemented in accordance with the timetable that had been set. The complainant refused the offer of payment and the matter has been referred to the LGO for consideration.
9. No complaints received by Corporate Services have been referred for consideration under the Policy.

Statutory and Policy Implications

10. This Report has been compiled after consideration of implications in respect of finance, equal opportunities, personnel, crime and disorder and those using the service. Where such implications are material, they have been described in the text of the Report.

Recommendations

11. That the Report be noted.

**JAYNE FRANCIS-WARD
MONITORING OFFICER**

Legal Services' Comments (SLB 05/03/2010)

By virtue of Article 9 of the Council's Constitution the Standards Committee is responsible for monitoring the operation, and advising the Council on the updating and revision of the payments for Maladministration Policy.

Comments of the Service Director (Finance)

Payments made under this policy are met from existing budgets. (MB 08/03/10)

Background Papers Available for Inspection

The Payments for Maladministration Procedure

Electoral Division(s) Affected

All.