

Corporate Committee 14 November 2019

Report title: Complaints, Members' Enquiries and Freedom of Information Act requests 2018/19

Wards: All

Portfolio: Cabinet Member for Finance & Performance: Councillor Andrew Wilson

Report Authorised by: Bayo Dosunmu: Strategic Director for Resident Services

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Report summary

This report provides Corporate Committee with an overview of Complaints, Members' Enquiries (MEs) and requests made under the Freedom of Information (FoI) Act and the Data Protection Act ('information requests') from April 2018 to March 2019.

Finance summary

There are no financial implications arising as a direct result of this report.

Recommendations

1. To note the contents of the report.

1. CONTEXT

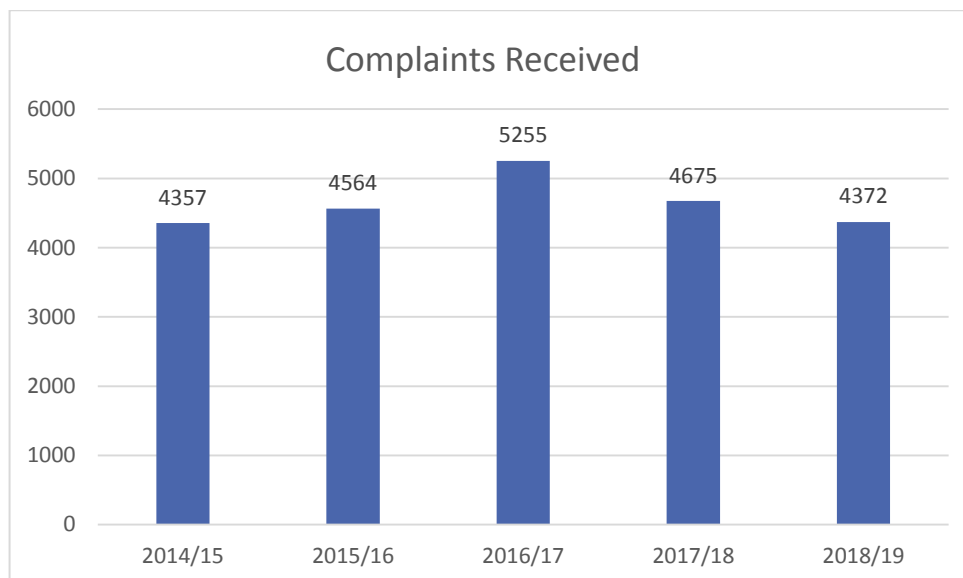
1.1 This report provides an overview of complaints, Members' Enquiries and information requests (under the Freedom of Information Act 2000 and Data Protection Act 2018) received by the Council during 2018/19.

2. PROPOSAL AND REASONS

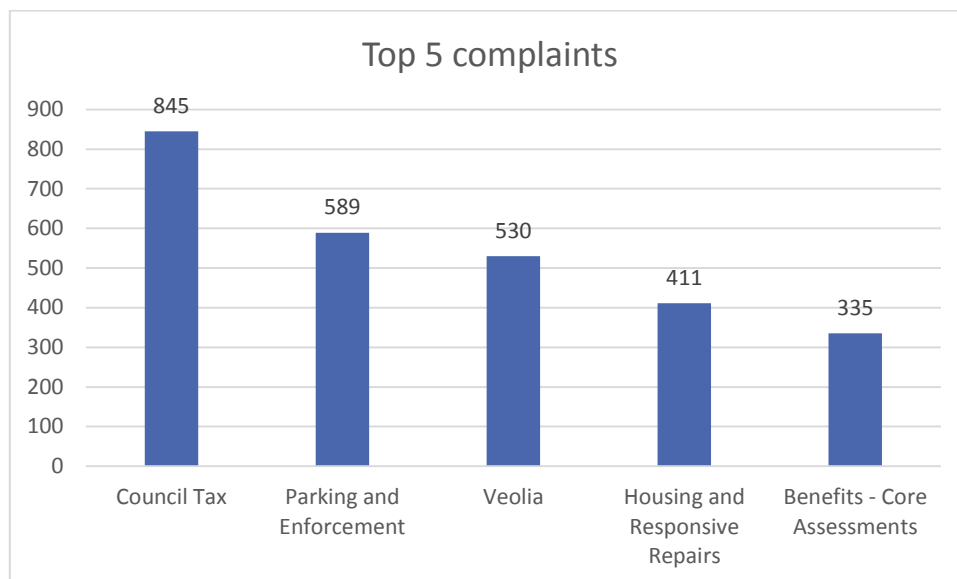
Complaints

2.1 The Council has a two-stage complaints process. The first stage is dealt with by the service that has been complained about (Local Resolution) and the second stage (or Final Review) is investigated independently by the Corporate Complaints Unit. If the customer feels their complaint has not been resolved after the second stage, they can escalate their complaint to the Local Government Ombudsman (LGO).

2.2 The graph below shows the number of Local Resolution complaints received over the last five years.



2.3 A total of 4372 Local Resolution complaints were received in 2018/19. This is a decrease of 6.5% compared to 2017/18 and 16.8% compared to 2016/17. The graph below shows the top five categories for volume of complaints received. These five categories are all services that have high levels of customer interaction, and in some circumstances can be controversial or sensitive. Collectively, these five areas account for around 62% of all complaints received in 2018/19.



2.4 Below is further analysis of the top five complaints received by each of these service areas. With each of these services it is difficult to pinpoint particular reasons or circumstances which have led to an increase or decrease in complaints.

Council Tax

2.5 Council tax complaints accounted for around 19% of all local resolution complaints received in 2018/19. The vast majority of council tax complaints related to the Council's quality of service (85%), followed by service failure and delays in receiving refunds for overpayments. Despite the considerable volumes received, around 84% of all council tax complaints were not upheld which indicates that on the whole the correct decisions were being made.

Parking & Enforcement – Parking Services

2.6 The largest proportion of complaints were about the Council's decision making (42%) followed by service failure (27%) and delays (15%). Most complaints concerned the issuing of parking permits (37%) and the Penalty Charge Appeals process (31%). There were also a number of complaints about the actions of Civil Enforcement Officers (12%). In terms of outcomes, 52% of all complaints in this area were either upheld/partly upheld (this is an increase on last year where 48% of complaints were upheld/partly upheld).

Housing and Responsive Repairs

2.7 Most common complaints related to communal and property repairs, Capital Works (lack of inclusion of property in the LHS programme or about previous works), leasehold service charges and major works bills, and antisocial behaviour issues.

Veolia

2.8 This service accounted for around 12% of all complaints received in 2018/19, of which around two thirds related to the collection (or non-collection) of refuse/waste, including the handling of bins; food and garden waste; bulky refuse; dumped rubbish and the supply of bin bags. Generally, these are relatively simple one-off service failures where the customer is looking for a quick resolution and around 61% of complaints were either upheld or partly upheld.

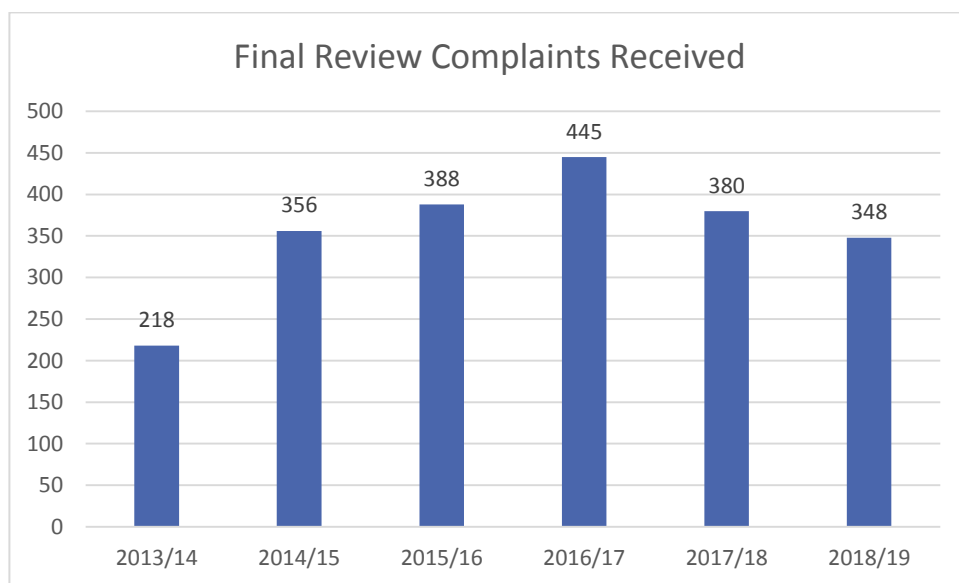
Benefits – core assessments

2.9 Customers were mainly concerned with delays in assessments (which accounted for 51% of complaints received) followed by service failure (28%) and quality of service (11%). Of all complaints received, the vast majority were not upheld (64%). 103 complaints were either upheld or part upheld (30%).

2.10 At the Corporate Committee meeting on 21 March, members requested comparative data with other local authorities. Comparative data relating to complaints received is not generally published by other local authorities. In addition, any comparative data should be treated with a degree of caution as there is a risk that data is not directly comparable. For example, Lambeth’s definition of a complaint – ‘any expression of dissatisfaction whether justified or not’ – is broad and incorporates both complaints and service requests. Other local authorities may treat service requests outside of their formal complaints process through a separate process or prefer to deal with them as routine business as usual. The only reliable comparative data is for complaints handled by the Local Government Ombudsman (LGO). Further details on this are provided in paragraph 2.22 below.

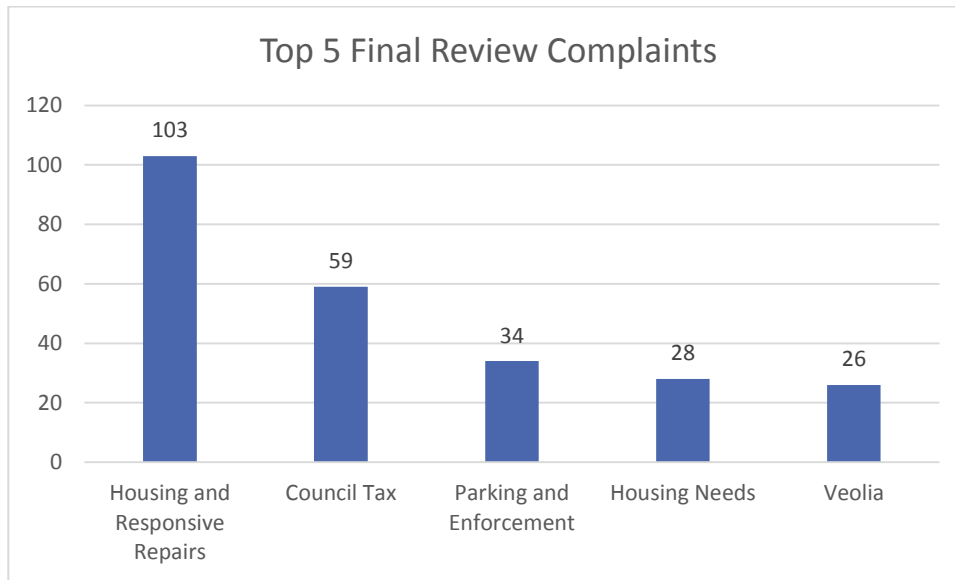
Complaint escalation – Final Review

2.11 The graph below shows the number of Final Review complaints over the last five years, which were escalated from the Local Resolution stage usually because the customer felt that the complaint wasn’t dealt with to their satisfaction.



2.12 A total of 348 Final Review complaints were received in 2018/19. This is a decrease of around 8% compared to 2017/18 and 22% compared to 2016/17. This trend suggests that complainants are generally satisfied with the outcome at the first stage and do not feel the need to escalate further.

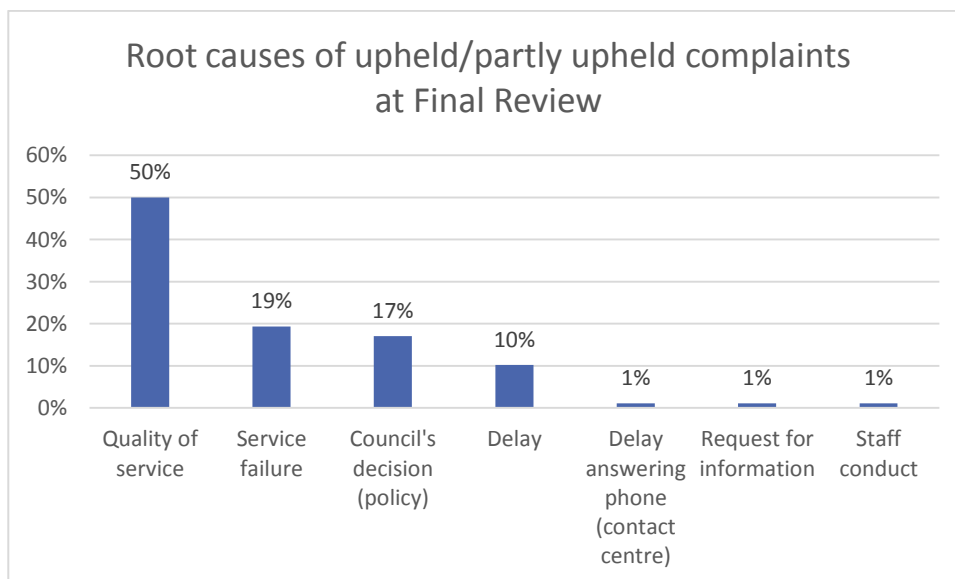
2.13 Generally, the services that received the most complaints at Final Review were those services that received the most Local Resolution complaints, as presented in the graph below.



2.14 Of the Final Review complaints investigated, 159 were upheld or partly upheld. The categories with the most upheld/partly upheld complaints were:

- Housing and Responsive Repairs – 71
- Council Tax – 23
- Parking and Enforcement – 19
- Veolia – 8
- Housing Needs – 8
- Benefits – Core Assessments - 6

2.15 The root causes of upheld complaints at Final Review stage are provided in the chart below. The vast majority of cases were upheld due to either quality of service or service failure. This means that in the customer's view they did not receive the level of service they expected or deserved.



Lessons learnt from complaints

2.16 At their meeting on 21 March 2019, Corporate Committee requested some examples as to where lessons have been learnt from complaints to prevent an issue reoccurring and from similar

complaints being received. A selection of examples are provided below where services have changed practice following the receipt of complaints:

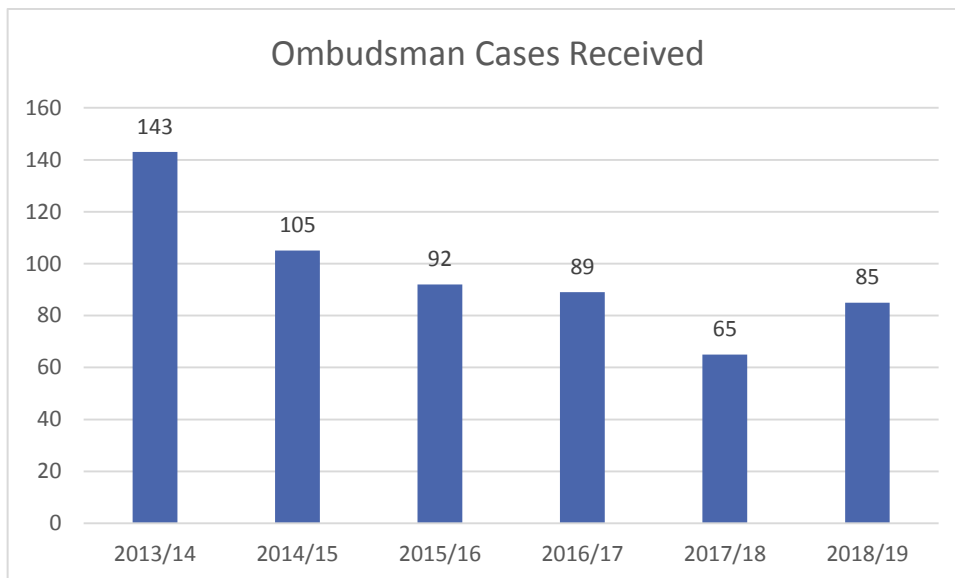
- A gas servicing complaint from a vulnerable tenant about unreasonable periods with no heating and hot water. As a result of the final review investigation the service took steps to improve complaint handling at local resolution stage, as well as improve contract monitoring, where contractor agreements include provision for compensation to be awarded, where service delays are identified.
- A voids complaint about a tenant's gas supply being set to turn on at the wrong date after they moved in. Part of the remedy awarded included improved training and staff guidance to avoid similar issues in future
- A council tax complaint where a customer was incorrectly advised over the telephone that an outstanding debt had been recalled from the bailiffs, when in fact this was not the case. The debt subsequently escalated and the customer made an immediate payment to avoid any further enforcement action. An apology and refund were issued, and staff procedures were updated to ensure that agents review all available records, before providing advice as to the status of a debt.
- A parking case regarding a failure to take enforcement action against a vehicle blocking a dropped kerb. APCOA had advised that the matter was not enforceable as the dropped kerb was outside multi- occupancy property. After further investigation it was identified that enforcement action could in fact be taken on grounds that had not been previously considered, and once the offences were enforced the problem was subsequently resolved.
- An abandoned vehicle case where a vehicle was impounded, but a 7 day disposal notice was not issued until two months later, thus increasing the storage fees the customer will be liable for. In addition the 7 day notice advises customers to make payment and then submit a complaint, rather than an appeal where they feel the vehicle has been removed incorrectly. An apology and refund were issued, and wording of "7 day disposal letter" has been amended to set out the correct procedure should a customer choose to challenge the removal of an abandoned vehicle.
- A number of complaints have been made about abandoned vehicles. To address this, a number of remedies have been put in place, including:
 - improved reporting on the number of vehicles reported as abandoned so progress can be better monitored;
 - designed stickers to put on vehicles so that residents know that something is being done (i.e. it's been reported, it's now going to be removed). This has reduced the amount of avoidable contact received; and,
 - creating a direct link with the DVLA database so that we can confirm more quickly a vehicle as being abandoned.
- Following complaints about a lack of provision for deaf residents, the Council has procured a British Sign Language solution which is currently in proof of concept for face to face interactions in the customer centre and will be launched officially in November.
- Following a number of complaints and queries from customers wanting to know what's happening with their benefit claim, a new citizens portal has been launched which contains a tracker. If a customer has signed-up to their citizen's account they are able to view the progress being made with their benefit assessment

Complaint escalation – Local Government Ombudsman and Housing Ombudsman

2.17 Local Government Ombudsman (LGO) investigates complaints of maladministration against local authorities and some other public bodies. The Housing Ombudsman Service investigates complaints made about housing organisations and resolves disputes involving tenants and leaseholders of social landlords, as well as those involving private landlords and letting agents. The Corporate Complaint Unit (CCU) coordinates and responds to enquiries received by the

Ombudsman. These enquiries often include requests for additional information that supports the way we dealt with the complaint at Local Resolution or Final Review.

2.18 A good indicator of how well the Council resolve complaints locally is to look at the number of complaints the Ombudsman investigates each year and the decisions they make. The graph below provides Council data on the number of Ombudsman enquiries received for the last five years.



2.19 An alternative indicator of how well our complaints process works is to look at the decisions the Ombudsman makes, particularly where they uphold a complaint or find fault with something the Council has done.

2.20 Of the 85 LGO decisions received: 47 cases (55%) were closed after initial enquiries, meaning that the LGO was happy with the internal investigation the Council had completed and the measures put in place, and no further action was required, or that the matter was outside the LGO's jurisdiction; 10 cases (12%) were not upheld and 27 (32%) were upheld. As outlined above, this represents a small proportion of all complaints received at local resolution stage. In the majority of cases assessed by the LGO they either agreed with the Council's decisions, or were satisfied with the steps taken to put matters right.

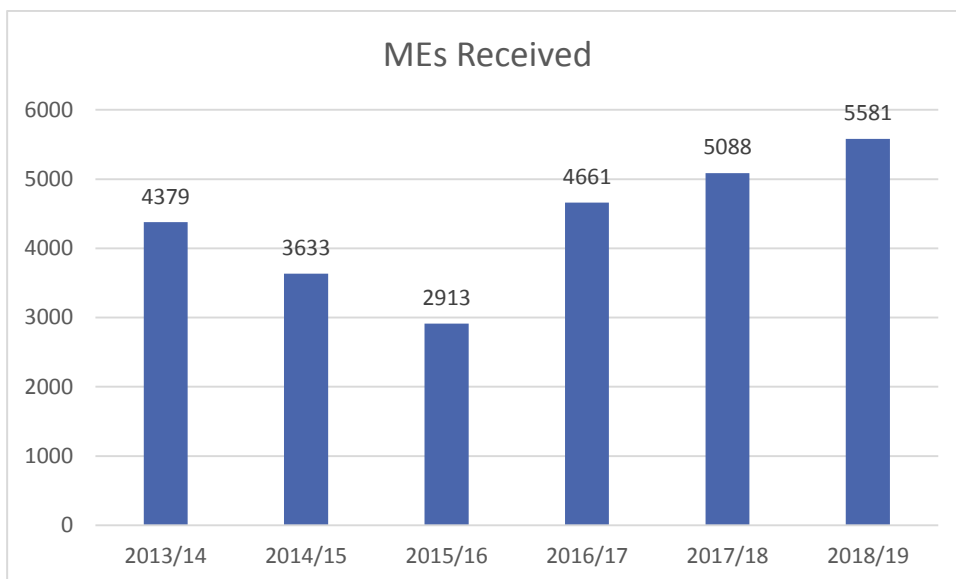
2.21 Where the Ombudsman deemed that there is a case of sufficient merit, they can decide to publish a report. In 2018/19, there was one report published by the LGO. This was concerned with the way that the Council handled a noise complaint and its failure to meet statutory obligations.

2.22 It is important to note that the figures given above differ from those contained in the recent LGO annual letter to the Council. This is because the LGO receives a number of contacts and enquiries from customers pertaining to Lambeth that are resolved by the LGO without the need to refer the enquiry to the Council. However, comparative data provided by the LGO on complaints received and complaints decided can be found here: <https://www.lgo.org.uk/information-centre/reports/annual-review-reports/local-government-complaint-reviews>

2.23 In relation to the Housing Ombudsman Service 28 cases were formally investigated with a determination issued. Of the complaints received, 54% concerned responsive repairs, 17% concerned Home Ownership & Rents, and 12.5% related to Tenancy Enforcement. Of those cases formally investigated, in 18 cases (64%) maladministration was identified.

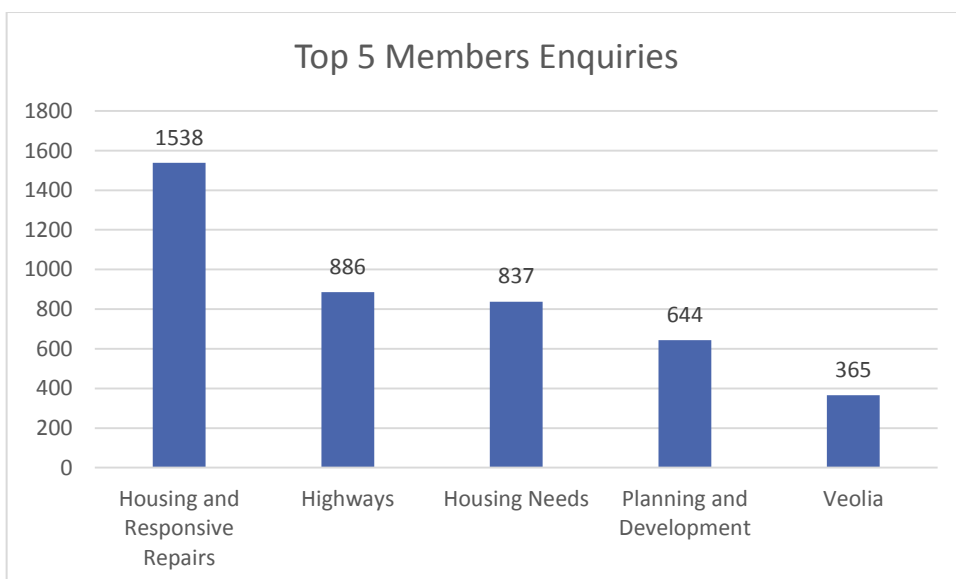
Members' Enquiries (MEs)

2.24 The graph below shows the number of Members' Enquiries received over the last five years.



2.25 This represents an increase of 9.6% on the previous year. Month-by-month analysis shows higher volumes of MEs received between April and November 2018 followed by a reduction in the winter months before increasing again in March 2019. This is a very different trend compared to the previous year where there were lower volumes in the first half of 2017/18 and higher volumes in the latter half of the financial year, particularly in January 2018. In part, this may be due to local elections in May 2018 and a large cohort of new Councillors who generally submit more MEs than the Councillors they replaced and have used the ME process as a means to obtain information on matters they are interested in or concerned about.

2.26 The graph below shows the top five service areas for volume of MEs received.



2.27 When compared to 2017/18, the top five service categories in 2018/19 are the same although there are some differences in volumes received.

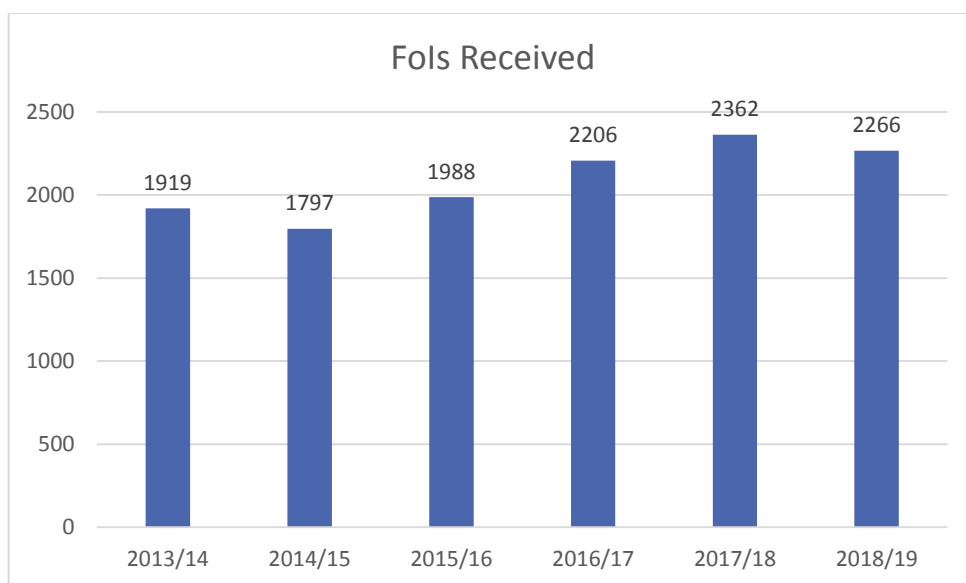
2.28 Some brief analysis has been done of the five service areas above to identify what enquiries are concerned with. In some cases, the issues that are complained about are the same as those that they raise with their local councillor.

- Housing and Responsive Repairs – the most common enquiries received are to request a repair, or raise concern about outstanding repairs; to request assistance with housing transfer; to request information on when Capital Works property upgrades will be done, or raise concern about existing works; and, to raise concern about leaseholder service charges or leaseholder major works bills.
- Highways – the areas with the largest number of MEs tended to concern major and minor works, pavements, carbon management, signage, street furniture and lighting, road surfacing and potholes, crossings and bollards and posts. Around 41% of MEs received were a request for a service whilst around 36% were a request for information.
- Housing Needs – these tended to be enquiries about housing allocations and temporary accommodation, such as a resident’s place on the Housing Register; the band they are in; and how long they can expect to wait before being successful in bidding for a property. There were also a number of queries about private sector accommodation including regulation and enforcement. Almost half (47%) of MEs in this area were a request for information whilst a further 42% of enquiries were a request for a service.
- Planning and Development – these tend to be about planning applications and permissions; alterations and breach of conditions; and enforcement. The majority of enquiries in this area were requests for information (54%) followed by requests for a service (47%).
- Veolia – these MEs were predominantly concerned with dumped rubbish, refuse collection, and street cleaning and blocked drains and gullies. The largest proportion of MEs (44%) were a request for a service, with the next largest proportions being service failure (17%) and council decision (14%)

2.29 There is no comparative data available for Members’ Enquiries.

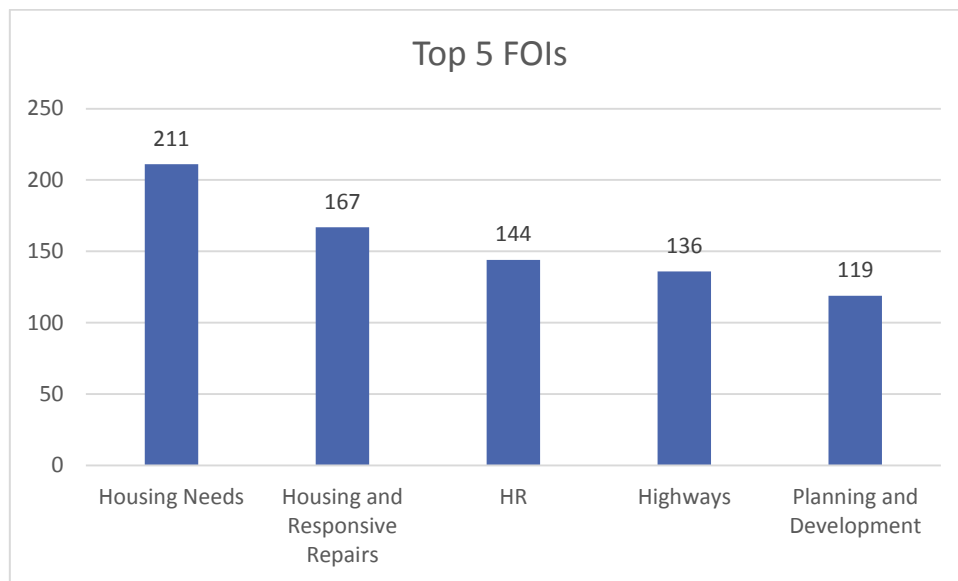
Freedom of Information Act requests

2.30 The graph below shows the number of Freedom of Information Act requests received over the last five years.



2.31 This represents a decrease of 4% compared to the previous year but an increase of 2.7% compared to 2016/17.

2.32 The graph below shows the top five service categories that received information requests in 2018/19.



2.33 There are similarities with the top five service categories in 2017/18, with two exceptions. Housing Needs is in the top 5 in 2018/19 and also has the highest number of FOIs. Planning and Development is also in the top 5 this year. These two service areas replace Parking Services and Business Rates which respectively held the second and fifth highest volumes of FOIs last year.

2.34 Analysis has been done of the five service areas above to identify common FOIs:

- Housing Needs – these are mostly queries concerned with the numbers and size of households in social housing or temporary accommodation, housing waiting lists, homelessness decisions and repossessions
- Housing and Responsive Repairs – these tend to be queries from leaseholders, the number of empty properties and/or properties on estates, the cost of repairs spending
- HR – organisational structure, pay grades, numbers of agency staff
- Highways - potholes, highway repairs, speed limit changes and roads receiving most funding /complaints
- Planning and Development – planning applications and permissions granted, S106 or CIL agreements, developments that fall within Lambeth’s boundaries

2.35 In relation to FOIs, comparative data is not routinely published by other London Boroughs. The most comprehensive recent comparative data for London boroughs can be found in the report published by the Campaign for Freedom of Information in March 2019. This identified that Lambeth received the highest number of FOI requests in 2017/18 followed by Tower Hamlets and Southwark. More recent FOI data is available from the LAPS benchmarking tool. Of the 13 London Boroughs that provided data for 2018/19, Ealing received the highest number of requests (2145), followed by Tower Hamlets (2075) and Hackney (2043).

FOI escalation – Internal Review

2.36 An internal review initiated when someone is not happy with the way the Council has dealt with their request for information provided. During 2018/19 there were 101 FOIs which were escalated to Internal Review. This represents 4.5% of the total number of FOIs received during the year. Common themes for escalated FOIs were Environment and Housing Services. These

service areas are highest primarily because Environment includes FOIs relating to parking fines issued; and Housing Services can include FOIs which are linked with other housing/repair related complaints. With some requests in these service areas, the Council applied an exemption to the request and did not release the information requested, which the enquirer disagreed with leading to an Internal Review.

FOI escalation – Information Commissioner’s Office

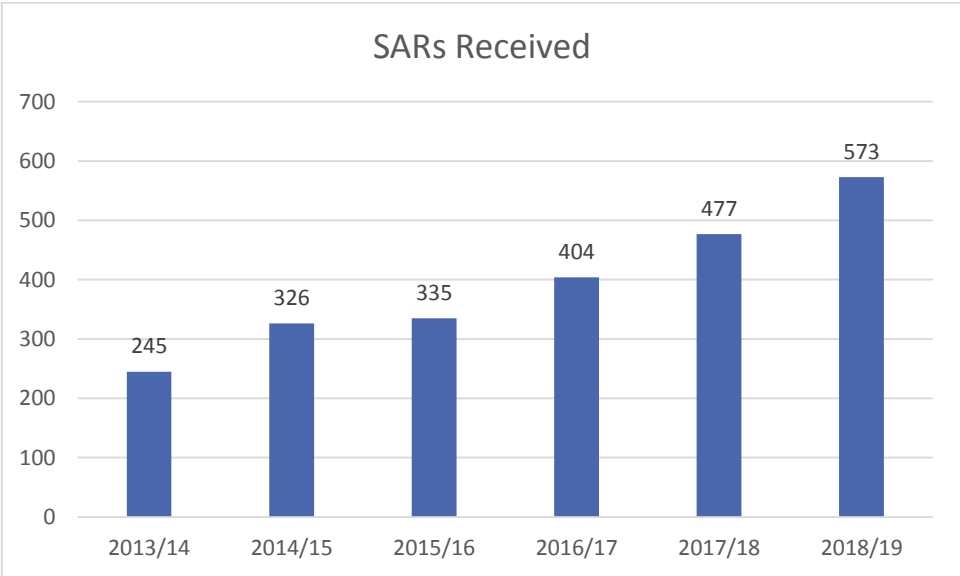
2.37 The Information Commissioner’s Office (ICO) is responsible for upholding information rights in the public interest. Part of this includes improving the information rights practices of organisations by gathering and dealing with concerns raised by members of the public.

2.38 During 2018/19, the Council received 16 cases from the ICO: four of these were not upheld by the ICO; six were informally dealt with, three resulted in further disclosure to the applicant and three are ongoing cases.

2.39 During the same period, the ICO issued five decision notices. With one of these the ICO agreed with the Council that all information was provided or that information should be withheld. With three the ICO asked that the response was re-issued without reliance on the cited exemption; and with one, the ICO noted that the Council had not responded to the request within deadline.

Subject Access Requests

2.40 The Data Protection Act 2018 allows people to access personal records / information that the Council holds about them. These requests are known as Subject Access Requests (SARs). The number of SAR requests over the last five years can be seen in the graph below.



2.41 This continues the upward trend since 2013/14. SARs received by the Council tend to be concentrated in four main service areas where customers request to see their files – Children’s Social Care; Benefits; Housing Needs & Allocations; and CCTV requests. Requests for CCTV footage are relatively simple requests to deal with and are often associated with the issuing of a PCN for breaking a traffic rule such as driving in a bus lane. In contrast, requests for social care records can be complex and have significant resource implications in as much as documents requested can be sensitive and need to be reviewed carefully.

2.42 The increase in the number of Subject Access Requests received by the Council is likely to be due to a growing awareness by individuals of their right to obtain a copy of their personal data as well

as other supplementary information, introduced as part of the General Data Protection Regulation (GDPR) in May 2018. Previously, SAR requests cost £10 but the GDPR abolished the cost and made it free to individuals to ask for their personal data.

- 2.43 In July 2019, the Council, in common with other London Boroughs whose performance was below 90% in responding to SARs within a calendar month, were requested by the Information Commissioner's Office to provide an action plan setting out how it would improve performance. A draft action plan was submitted at the end of August and includes a number of measures to help improve performance including: better coordination of SARs that cut across different service areas; raising awareness of SAR processes across the Council; and, better prioritisation of SARs that are approaching deadline by Directorates.
- 2.44 The action plan continues to be refined and will be informed by the findings of the strategic review referred to in paragraph 2.48 below.
- 2.45 There is no comparative data available for Subject Access Requests.

SAR escalation – Information Commissioner's Office

- 2.46 The Council received nine complaints about SARs from the ICO. This was because either personal information had not been received by the legal deadline (seven) or because the applicant felt that not all of their personal data had been provided (two). In the latter two cases, the ICO accepted our position in the one case and in the other case more information was provided to the applicant after the legal deadline. Across the nine cases, the ICO acknowledged that the Council breached the Data Protection Act on two occasions as the response was after the legal deadline.

Complaints review

- 2.47 The Corporate Complaints Unit moved to the Resident Services directorate at the end of October in order to join it up with other customer-facing services. As part of this, the Chief Executive has commissioned a strategic review of complaints, FOIs, MEs and SARs. A third-party organisation called Ameo has been brought in to lead on this.
- 2.48 The purpose of the complaints review is to identify a set of quick wins and longer-term improvements across complaints, ME, FOI and SAR processes and performance, including the upgrading of the iCasework system to a cloud-base system to ensure compliance with Lambeth IT policy and wider GDPR requirements. The migration of data from the current system to the cloud-based system has proved to be a stumbling block to progress. The Council's position is that this is a pre-requisite for any migration and discussions are continuing with iCasework (the provider of the iCasework system) to ensure this happens. As highlighted to Corporate Committee in previous reports, the self-service portal is a feature available on the cloud-based system and its viability will be considered within the wider work taking place on the customer experience and the Council's digital strategy.

3. FINANCE

- 3.1 There are no revenue or capital implications directly arising from this report. It should, however, be noted that there are substantial costs related to the processing and management of complaints, MEs, Freedom of Information requests and Data Protection requests, and from the payment of compensation. The costs of the processing and management of complaints is met from the existing budgets of the Complaints Team, now within the Resident Services directorate. Costs in respect of compensation are met from existing budgets of the relevant service areas.

4. LEGAL AND DEMOCRACY

- 4.1 The powers and duties of the Local Government Ombudsman are contained in the Local Government Act 1974. If the Ombudsman is of the opinion that an injustice has been caused as a result of maladministration, he shall issue a formal report and it shall be the duty of the authority to consider the report and to notify the Ombudsman of the action that it has taken or proposes to take, including making a compensation payment.
- 4.2 The Housing Ombudsman Scheme is approved by the Secretary of State under the Housing Act 1996. The Act requires social landlords to be members of an approved scheme. The purpose of the Housing Ombudsman Scheme is to enable tenants and other individuals to have complaints about members investigated by a Housing Ombudsman. The Scheme came into effect on 1 April 2013. The role of the Ombudsman is to resolve disputes involving members of the Scheme, including making awards of compensation or other remedies when appropriate, as well as to support effective landlord-tenant dispute resolution by others.
- 4.3 The GDPR provides that data subjects should be provided with the contact details of the Data Protection Officer which would then allow for local resolution of non-compliance issues referred to above rather than the matter being escalated to the ICO.
- 4.4 The Data Protection Act 2018 allows the Council to extend the time to respond by a further two months if the request is complex or if it has received a number of requests from an individual. The Council must let the individual know within one month of receiving their request and explain why the extension is necessary. If this is done, where appropriate, then the response time statistics referred to above would be improved.
- 4.5 There were no additional comments from Democratic Services.

5. CONSULTATION AND CO-PRODUCTION

- 5.1 Not applicable.

6. RISK MANAGEMENT

- 6.1 Not applicable.

7. EQUALITIES IMPACT ASSESSMENT

- 7.1 At the meeting of 21 March 2019 Corporate Committee queried whether it would be possible to include equalities data and potential discrimination of protected groups in future reports. Unfortunately, it is not possible to draw meaningful conclusions from the equalities data held on the iCasework system. Whilst the capability to record equalities data exists, current processes mean that it is not routinely collected.
- 7.2 Customers are able to submit complaints through four routes: e-mail, web-form, letter and telephone. The majority of complaints are received via e-mail and webform. In relation to e-mail customers submit the details of their complaint along with some basic personal information to allow a response to be provided. Further equalities data is not requested and is rarely provided. Similarly, in relation to the webform, the completion of fields concerned with gathering equalities data was optional and not a requirement. Again, limited data was provided and it was decided to remove this element of the webform in order to comply with GDPR principles.

8. COMMUNITY SAFETY

8.1 Not applicable.

9. ORGANISATIONAL IMPLICATIONS

9.1 Environmental

None.

9.2 Staffing and accommodation

None.

9.3 Procurement

None.

9.4 Health

None.

10. TIMETABLE FOR IMPLEMENTATION

10.1 Not applicable.

AUDIT TRAIL

Consultation				
Name/Position	Lambeth directorate / department or partner	Date Sent	Date Received	Comments in paragraph:
Cllr Andrew Wilson	Cabinet Member for Finance & Performance	18.10.19	22.10.19	
Bayo Dosunmu	Strategic Director, Resident Services	18.10.19		
Vanessa Wilson	Directorate Programme Manager, Resident Services	18.10.19	18.10.19	
Hamant Bharadia	AD, Finance	18.10.19	1.11.19	2.16, 3.1
Alison McKane	Director, Legal Services	18.10.19	5.11.19	
Matt Ginn	Legal Services	5.11.19	6.11.19	4.2
David Rose	Democratic Services	18.10.19	21.10.19	4.1
Darren Levy	Director, Housing Services	18.10.19	22.10.19	
Neil Fenton	AD, Parking and Enforcement	18.10.19	For info	
Sara Hagley	Head of Assessments and Customer Centre, Resident Services	18.10.19	21.10.19	2.16
Tim Hillman-Brown	Head of Revenue & Benefits, Resident Services	18.10.19	For info	

REPORT HISTORY

Original discussion with Cabinet Member	N/A
Report deadline	01.11.19
Date final report sent	06.11.19
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	No
Background information	N/A
Appendices	None