



GOVERNANCE COMMITTEE

THURSDAY, 26 SEPTEMBER 2024

10.30AM (OR AT THE CONCLUSION OF CABINET, WHICHEVER IS THE LATER) COUNCIL
CHAMBER, COUNTY HALL, LEWES

MEMBERSHIP - Councillor Keith Glazier (Chair)
Councillors Nick Bennett, Bob Bowdler, Chris Collier, Johnny Denis and
David Tutt

A G E N D A

1. Minutes of the meeting held on 16 July 2024 (*Pages 3 - 4*)
2. Apologies for absence
3. Disclosures of interests
Disclosures by all members present of personal interests in matters on the agenda, the nature of any interest and whether the member regards the interest as prejudicial under the terms of the Code of Conduct.
4. Urgent items
Notification of items which the Chair considers to be urgent and proposes to take at the appropriate part of the agenda. Any members who wish to raise urgent items are asked, wherever possible, to notify the Chair before the start of the meeting. In so doing, they must state the special circumstances which they consider justify the matter being considered urgent.
5. Appointments to Outside Bodies (*Pages 5 - 6*)
Report by the Deputy Chief Executive.
6. DBS Checks for Members (*Pages 7 - 70*)
Report by the Deputy Chief Executive.
7. Amendment to the Constitution (*Pages 71 - 78*)
Report by the Chief Executive.
8. Customer Experience Annual Report 2023/24 (*Pages 79 - 116*)
Report by the Director of Communities, Economy and Transport.
9. Assistant Director Post in the Children's Services Department (*To Follow*)
Report by the Chief Executive.
10. Any other items previously notified under agenda item 4

PHILIP BAKER
Deputy Chief Executive
County Hall, St Anne's Crescent
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18 September 2024

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GOVERNANCE COMMITTEE

MINUTES of a meeting of the Governance Committee held at Council Chamber, County Hall, Lewes on 16 July 2024.

PRESENT Councillors Keith Glazier (Chair), Nick Bennett, Bob Bowdler, Chris Collier and David Tutt

ALSO PRESENT Councillors Johnny Denis (via MS Teams), Penny di Cara, Stephen Shing and Trevor Webb.

12. MINUTES OF THE MEETING HELD ON 25 JUNE 2024

12.1 RESOLVED – that the minutes of the previous meeting of the Committee held on 25 June 2024 be confirmed and signed as a correct record.

13. REPORTS

13.1 Copies of the reports referred to below are included in the minute book.

14. APPOINTMENTS TO OUTSIDE BODIES

14.1 The Committee considered a report by the Assistant Chief Executive regarding the appointment of a councillor to the Gatwick Airport Consultative Committee and South East Employers Committee.

14.2 The Committee RESOLVED to:

- 1) appoint Councillor Bennett and Councillor di Cara as the Council representatives on the South East Employers Committee for the period to June 2025.
- 2) appoint Councillor Philip Lunn as the substitute Council representative on the Gatwick Airport Consultative Committee for the period to June 2025.

15. ANNUAL GOVERNANCE STATEMENT 2023/24

15.1 The Committee considered a report by the Assistant Chief Executive on the review of the Corporate Governance Framework for 2023/24.

15.2 The Committee RESOLVED to:

- 1) approve the action plan for 2024/25 as set out in Annex E of Appendix 1;
- 2) note that actions identified to enhance governance arrangements are reflected in Business Plans and that implementation will be monitored throughout the year;
- 3) confirm that Members are satisfied with the level of assurance provided to them through this report and the Council's governance framework and processes;
- 4) consider any comments from the Audit Committee;
- 5) confirm that there were no significant governance issues that should be included in the Council's Annual Governance Statement;
- 6) approve the draft Annual Governance Statement for signature by the Leader and the Chief Executive and publication within the Statement of Accounts; and

- 7) approve the Local Code of Corporate Governance for 2024/25.

16. ANNUAL REPORT OF THE AUDIT COMMITTEE

16.1 The Committee considered a report by the Chief Operating Officer on the Annual Report of the Audit Committee.

16.2 The Committee RESOLVED to note the Audit Committee: Annual Report 2023/24.

17. FLEXIBLE RETIREMENT POLICY

17.1 The Committee considered a report by the Chief Operating Officer on the proposed introduction of a flexible retirement policy.

17.2 The Committee RESOLVED recommend the County Council to agree:

- 1) the implementation of a flexible retirement scheme for employees (excluding those on Teaching terms and conditions) as set out in Appendix 2 of the report; and
- 2) that the Local Government Pension Scheme Employer Discretions Policy is updated accordingly to allow for this.

[Councillor Tutt abstained from the vote as a member of the Pension Committee]

Report to: Governance Committee
Date: 26 September 2024
By: Deputy Chief Executive
Title of report: Appointments to Outside Bodies
Purpose of report: To consider appointments to outside bodies until May 2025.

RECOMMENDATION

The Governance Committee is recommended to appoint a Councillor to serve on the South East Employers Board as a County Council representative until the date of the annual council meeting in the next County Council full election year.

1. Supporting Information

1.1 The County Council is invited to appoint Members (and in some cases non-County Councillors are eligible) to serve on a wide range of outside bodies whose role has a relationship to a function of the County Council. The appointments are a vital part of the County Council's working in partnership with voluntary bodies, statutory agencies and the public and private sectors.

1.2 South East Employers (SSE) is one of the nine regional employers' organisations which represent the interests of local authorities and public sector bodies in England. Councillor di Cara was appointed to the SEE Board at the Governance Committee meeting of 16 July and the Council is entitled to appoint a further representative.

1.3 Unless otherwise stated appointments are for the period ending in May 2025.

2. Recommendation

2.1 The Committee is asked to appoint a Councillors to serve on the South East Employers Board for the period ending in May 2025.

PHILIP BAKER
Deputy Chief Executive

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Background Documents
None

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Report to: Governance Committee

Date of meeting: 26 September 2024

By: Deputy Chief Executive

Title: Disclosure and Barring Service (DBS) Checks for Councillors

Purpose: To consider arrangements the County Council has in place in relation to criminal record checks for Councillors.

RECOMMENDATIONS

The Governance Committee is recommended to recommend the County Council to:

- 1) Approve that an Enhanced Disclosure and Barring service check be undertaken for Members performing the roles listed below:
 - a) Nominated substitutes for the Corporate Parenting Panel (as set out in paragraph 3.2) and;
 - b) Members of the Discretionary Transport Appeal Panel (as set out in paragraph 3.4).
 - 2) Approve that all Members are requested to undertake a basic criminal record check after the County Council elections in May 2025;
 - 3) that the Council's DBS Policy Statement is updated to include reference to the changes proposed in Recommendations 1 and 2 as set out in Appendix 2.
-

1 Background

1.1 In 2022 the Government announced an Independent Review of the Disclosure and Barring Regime. The purpose of the review was to provide assurance to Ministers on the effectiveness of the Disclosure and Barring Service regime in safeguarding children and vulnerable adults. The subsequent review was published in 2023 and is attached at Appendix 1.

1.2 The review included consideration of the eligibility of local councillors for criminal record checks provided by the Disclosure and Barring Service ('DBS checks'). On this point the review made the following recommendation:

Recommendation 5: local councillors

That an enhanced criminal record check is made mandatory for all councillors in Unitary and Single Tier Authorities who are being considered for appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults. I accept that this would require legislation and therefore some inevitable delay, so I further recommend that these authorities are encouraged to adopt this procedure as best practice pending legislation.

1.3 The Minister for Local Government, subsequently wrote to the Leaders of all Unitary and Upper Tier Authorities in England urging enhanced DBS checks to be adopted as best practice for all Councillors being considered for appointment to any committee 'which discharges education or social services'.

Disclosure and Barring checks

2.1 The Disclosure and Barring Service (DBS) provides a procedure through which organisations may carry out criminal record checks relating to individuals who may, on behalf of the organisation, undertake work or hold positions or responsibilities which may bring them into contact with vulnerable persons.

2.2 When considering matters relating to criminal record checks, it should be kept in mind that Councillors are not required to undergo a DBS check by virtue of their role as a Councillor generally. The County Council must therefore take care not to seek too much information since, for example, an organisation can only ask for a check where the nature of the role makes it appropriate.

2.3 There are various levels of checks depending on the nature of the role:

Type of check	Description
Basic check	This check shows unspent convictions and conditional cautions. Cost: £18
Standard check	This checks for spent and unspent convictions, police cautions, reprimands and final warnings. Cost: £18
Enhanced check	This includes the same as the standard check plus any additional information held by local police (such as complaints or third party referrals) that is considered relevant to the role. Cost: £38.
Enhanced check with Barred List check	This is like the enhanced check, but includes a check of the two DBS lists of people barred from working with (1) children and (2) vulnerable adults. Cost: £38

2.4 A standard or enhanced DBS check can only be requested for specific roles, primarily those where there is direct contact with vulnerable people or access to confidential and sensitive information. A basic DBS can be requested for any role.

2.5 The Council's DBS Policy Statement (attached at Appendix 2) states that DBS Disclosures for Councillors fulfilling the roles set out below will be monitored by Business Administration and refreshed every 4 years. Disclosures are then sent to the individual. The unique reference number and date of issue of a Councillor's disclosure will be recorded as evidence of the check having been undertaken, but this will not indicate whether the check has resulted in a positive disclosure.

At its meeting in October 2017 the Council agreed that the roles set out below required an enhanced criminal record check:

- Members of the Fostering Panel
- Members of the Corporate Parenting Panel
- Lead Member for Children and Families
- Lead Member for Education and Inclusion, Special Educational Needs and Disability
- Lead Member for Adult Social Care and Health

2.6 Where a DBS check results in a positive disclosure (i.e. a criminal background or details that may be of concern) the Councillor would be requested to meet with the Chief Executive and Monitoring Officer to discuss the disclosure and its impact on their suitability to undertake certain roles. If the outcome of those discussions is that there should be a restriction in their role, then this would be additionally shared with the Member's group leader where relevant.

2.7 As part of the review of the Council's practice we have sought information as to the practices of other Councils:

Organisation	Approach	
	All Members	Specific Roles
Brighton & Hove City Council	None	Enhanced check
Hampshire County Council	Enhanced check	Enhanced check
Kent County Council	Enhanced check without Barred List check	Enhanced check with Barred List check
Surrey County Council	None	Enhanced check on Cabinet members and Chairs of Adults' and Children's Scrutiny Committee
West Sussex County Council	Standard check	Enhanced check on: <ul style="list-style-type: none"> • Chairman and Vice-Chairman of the County Council, • Regulation 44 Visitors • Cabinet Members for Children and Young People, Education and Skills, Adults and Health • Corporate Parenting Panel members • Foster Panel members

3 Matters for consideration

Corporate Parenting Panel.

3.1 The Corporate Parenting Panel (CPP) monitors and ensures the well-being of children who are looked after by the Council (in children's homes or as fostered children). The Panel meets four times a year and is comprised of seven members.

3.2 Whilst members of the CPP are already required to undertake enhanced criminal record checks, no such requirement is in place for substitutes. It is recommended that each political group is asked to have a nominated substitute for the Panel and that they be required to undertake an enhanced criminal record check. In the event that a member of the CPP was not able to attend a meeting only the nominated substitute would be able to replace them at the meeting.

3.3 An alternative approach which has been adopted by some local authorities is to prohibit substitutes on their Corporate Parenting Panels. This would mean fewer councillors would be required to undertake an enhanced criminal record check, but risks the meeting being inquorate.

Discretionary Transport Appeal Panel

3.4 The Discretionary Transport Appeal Panel makes decisions on the award of transport assistance to local students. The Panel is comprised of three members and meets approximately nine times a year. Members of the Panel are not currently required to undertake enhanced criminal record checks however they have voluntarily agreed to be subject to an enhanced check. Given the nature of the issues it considers, it is inevitable that the Panel are provided with confidential information relating to families and their children and it is therefore recommended that Panel Members are the subject of an enhanced check.

Criminal Record checks for all Members

3.5 The Member Reference Group considered the specific roles of Members set out in this report earlier this year and agreed with the proposals that enhanced DBS checks should be required for substitutes for the Corporate Parenting Panel and for members of the Discretionary Transport Appeal Panel. The Reference Group also suggested that all Members should be required to undertake an enhanced check. The main reasons given in support of this view are:

- all Members have the potential to come into contact with vulnerable individuals via their roles in their local community.
- that members of the public would expect councillors, who hold a position of trust, to have a DBS check,
- DBS checks would offer a level of assurance to members of the public; and
- DBS checks for all councillors could help protect the Council's reputation.

3.6 As the table in 2.7 shows, some local authorities do have arrangements in place requiring all councillors to have criminal record checks. However there is some variation in the type of DBS check which is applied. As set out in paragraph 2.2, Councillors are not required to undergo a DBS check by virtue of their role as a Councillor generally, and failure to agree to one would not debar them from being a Member of the authority. Putting in place requirements for DBS checks should not be approached lightly and checks should only be required where there is clear justification. Therefore, it is proposed that all Members are requested to agree to a basic check, with only specified roles being required to undertake enhanced DBS checks. This option seeks to balance the need to protect individual Councillors' private data and giving some level of assurance to the members of the public.

Timing of checks

3.7 If changes to the Council's current approach to DBS checks for councillors are taken forward and agreed by Full Council, it is proposed that following the elections in May 2025 those elected councillors will be contacted about DBS checks.

4 Conclusion and Reasons for Recommendation

4.1 Following a review of the Council's arrangements, having sought the views of the Member Reference Group and for the reasons set out in the report, the Governance Committee is recommended to recommend to County Council to:

- 1) Approve that an Enhanced Disclosure and Barring service check be undertaken for Members performing the following roles:
 - a) Nominated substitutes for the Corporate Parenting Panel (as set out in paragraph 3.2) and;
 - b) Members of the Discretionary Transport Appeal Panel (as set out in paragraph 3.4).
- 2) Approve that all Members are requested to undertake a basic criminal record check after the County Council elections in May 2025;
- 3) That the Council's DBS Policy Statement is updated to include reference to the changes proposed in Recommendations 1 and 2 as set out in Appendix 2.

PHILIP BAKER
Deputy Chief Executive

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Independent report

Independent Review of the Disclosure and Barring Regime (accessible)

Updated 26 May 2023

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[Appendix A](#)



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February 2023

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Any enquiries regarding this publication should be sent to us at public.enquiries@homeoffice.gov.uk

April 2023

Foreword

In accordance with my terms of reference I have delivered a copy of this report to Home Office policy officials. It draws on the entirety of the review team's work and makes some important recommendations to improve and strengthen the disclosure and barring regime.

I wish to thank everyone who has engaged with the review team for their thoughtful considerations and insights into the complex world of disclosure and barring. I hope they feel that it was time well spent.

I would like to record my thanks to Stephen Linehan KC for his support, legal expertise and drafting skills, and James Pierson for the assistance he provided during the review. Without their support I would not have been able to produce the report I have, or to make the recommendations I believe can make a meaningful difference to safeguarding arrangements in England and Wales.

I hope the government supports the recommendations.

Simon Bailey CBE, QPM

Executive summary

The stated mission of the Disclosure and Barring Service (DBS) is to provide information for employers to help them make safer recruitment decisions.

In the last decade the organisation has conducted 52 million checks and successfully contributed to the safeguarding ecosystem in England and Wales. However, the challenges of protecting children and vulnerable adults are always evolving and new threats periodically emerge.

In response to the challenge, and cognisant of the fact the current disclosure and barring regime had not previously been subject of an independent review, the then Safeguarding Minister, Rachel Maclean, announced in Parliament on 24 February 2022 that I had been appointed to conduct a review to identify key issues of concern about the current regime; to consider current responses to them; assess and advise on risks and opportunities; and make recommendations for improvement.

I agreed my terms of reference (Appendix A) and started the review as soon as my appointment was announced. I was supported by an expert reference group of subject matter experts: Gabrielle Shaw, the Chief Executive of the National Association for People Abused in Childhood; Northamptonshire Police Chief Constable Nick Adderley, the National Police Chiefs' Council Lead for Disclosure and Safeguarding; and Nick Timothy CBE.

I began the review by examining the existing disclosure and barring regime, before engaging with DBS executives and senior staff. Prior to my appointment, the DBS Chair and senior management team had undertaken an exercise to look at areas for improvement which they shared with me at our first meeting. It was clear a lot of thinking had already been done by them to identify areas to improve the regime.

Following this meeting, I engaged extensively across government departments and stakeholders and listened to their observations and concerns. The feedback was consistent and focused on the complexity of the regime and the definition of regulated activity, getting the right balance between safeguarding and rehabilitation, and the risks associated with the self-employed.

A list of those who contributed to the Review is set out in Appendix B.

Conclusions

As a result of reviewing the existing regime, engaging with the DBS, listening to stakeholders and officials across government departments, I believe the disclosure and barring regime, operated by the DBS, is routinely helping

employers and organisations that use volunteers to make safer employment decisions. It is therefore delivering its mission. However, there are areas where the regime can be improved by addressing gaps and weaknesses in the existing arrangements and by clarifying an important element of the regime, namely the definition of regulated activity.

I have therefore made eight recommendations to strengthen the regime, and one recommending that further work is done to look at amending the definition of regulated activity to make it more easily understood for those that apply it.

Recommendations

Recommendation 1

The definition of regulated activity relating to children be amended to remove the exemption for supervised activity.

Recommendation 2

Consideration be given to amending the definition of regulated activity with the aim of making it more easily understood by those who must apply it.

Recommendation 3

The legislation governing enhanced checks with barred lists checks is amended so that aid workers, who are nationals or residents here, whose contracts of employment are made here and whose work would bring them into contact with aid beneficiaries overseas are eligible.

Recommendation 4

Self-employed persons seeking to work with children or vulnerable adults are rendered eligible to apply for an enhanced DBS certificate with barred list

check.

Recommendation 5

An enhanced criminal record check is made mandatory for all councillors in Unitary and Single Tier Authorities who are being considered for appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults. I accept that this would require legislation and therefore some inevitable delay, so I further recommend that these authorities are encouraged to adopt this procedure as best practice pending legislation.

Recommendation 6

Enhanced DBS checks together with barred lists checks are made mandatory for applicants for the grant or renewal of a door supervisor's licence.

Recommendation 7

Enhanced DBS checks together with children's barred list checks are made mandatory for applicants for the grant or renewal of a close protection licence.

Recommendation 8

The Home Office and the DBS continue the work of assessing what, if any, further steps can be taken to mitigate the risk of individuals circumventing the DBS identification validation process, including the consideration of mandating the provision of a birth certificate as one of the documents establishing identity.

Recommendation 9

The DBS carries out the work necessary to establish the feasibility and cost of redesigning the Update service to enable employers, who have been given permission to carry out status checks, to receive notification of any change to the status of the certificate.

Introduction

The regime

1. The disclosure of an individual's criminal history and the barring of an individual from working with children and vulnerable adults are governed by a statutory regime that is intended to protect the public whilst considering the need for ex-offenders to rehabilitate through pursuing employment opportunities. The regime is underpinned by three key pieces of primary legislation, namely: Rehabilitation of Offenders Act 1974; Part V of the Police Act 1997; Safeguarding Vulnerable Groups Act 2006. (The Protection of Freedoms Act 2012 amended both the 1997 and 2006 Acts.) This legislative framework is complex, has evolved over time and reflects changes in Government policy and court judgments.

The competing public interests

2. The principles underlying the disclosure of an individual's criminal history were considered by the Supreme Court in the case of R (P, G & W) v SoSHD [2019] UKSC. The following extract is taken from the judgment of Lord Sumption:

“ Such cases raise problems of great difficulty and sensitivity. They turn on two competing public interests. One is the rehabilitation of ex-offenders. The other is the protection of the public against people whose past record suggests that there may be unacceptable risks in appointing them to certain sensitive occupations. The importance of both public interests needs no emphasis. The ability of ex-offenders to obtain employment is often an essential condition of their successful reintegration into law-abiding society at what, especially in the case of young offenders, may be a critical period of their lives. On the other hand, in some employment sectors a more cautious approach is indispensable. The Bichard Inquiry (2004) (HC 653) into child protection procedures and vetting practices was a stark reminder of the importance of ensuring that the rehabilitation of offenders does not undermine proper standards of public protection when those with criminal records apply for jobs involving contact with children.”

Disclosure and Barring Service

3. The statutory disclosure and barring scheme is administered by the Disclosure and Barring Service (DBS), set up under the Protection of Freedoms Act 2012. The Act merged the functions of the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority and transferred them to a new body, the DBS, a non- departmental public body sponsored by the Home Office. The disclosure and barring regime administered by the DBS operates in England, Wales, and, for disclosure, in the Channel Islands and the Isle of Man. The body known as AccessNI carries out the disclosure functions in Northern Ireland under similar legislative provisions. The DBS has two functions, namely disclosure and barring. It makes the barring decisions in relation to Northern Ireland.

Disclosure

4. The purpose of the DBS disclosure function is to help employers and organisations to make safer recruitment decisions in respect of employees and/or volunteers.

Barring

5. The DBS performs the barring function described below across all the jurisdictions previously mentioned. The function involves maintaining the Adults' and Children's Barred Lists containing the names of those persons who are barred by law from working with vulnerable adults and/or children in any work that is regulated activity as defined in the Safeguarding Vulnerable Groups Act 2006 (SVGA).

6. Individuals may be barred from working with children or vulnerable adults following conviction or caution for specified offences. The offences are divided into two classes: those which result in an automatic bar (autobar offences); and those where the DBS must give the individual the opportunity to make representations, the consideration of which may result in a decision not to bar (automatic inclusion offences). In the latter cases, the DBS can only bar a person who is or has been, or may in future be, engaged in regulated activity with children and/or vulnerable adults. Without this connection to regulated activity, the DBS is unable to place a person on a barred list.

7. The DBS also makes considered decisions as to whether an individual should be included in one or both barred lists because of conduct that has not led to a relevant conviction but nevertheless may justify a conclusion that they represent a risk to children or vulnerable adults. These cases arise in one of two ways, either because the individual has been referred to the DBS for consideration for barring or because of information appearing on a certificate for

which that individual has applied. Referrals are governed by statutory provisions. In the latter case the DBS acts of its own motion.

The Review

8. In February 2022, the Government announced an independent review of the disclosure and barring regime, which I was asked to conduct. The stated purpose of the review was ‘to provide assurance to Ministers about the effectiveness of the disclosure and barring regime in safeguarding children and vulnerable adults’.

9. I have attempted to assist those considering this review by setting out the functions of the DBS. As I have said, the legislative framework governing the regime is complex and has evolved over time. Whilst a consideration of the findings of the review does not require a full, detailed understanding of the regime and its history, it does require at least an understanding of the framework. I have set out below a description of that framework largely taken from the final report of the Independent Inquiry into Child Sexual Abuse (IICSA) published in October 2022.

The framework

10. The IICSA report was the result of seven years’ work by the panel and its supporting team. Part II Section E entitled ‘Creating a more protective environment for children’ makes extensive reference to the disclosure and barring regime. The report sets out a clear and easy to understand description of the framework within which the DBS operates. I have adopted it (IICSA report paragraphs 41-45, 48-50, 53) to prevent differences between the report and the review causing avoidable confusion, although I have made some small amendments and additions which appear in bold. Some of the material is a repetition of matters to which I have already referred but I include them again for convenience.

The Disclosure and Barring Service scheme (IICSA Report) [\[footnote 1\]](#)

41. The Disclosure and Barring Service (DBS) enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves children or vulnerable adults. It does so by:

- providing access to criminal records information through its disclosure service;

- maintaining lists of individuals barred from working in regulated activity with children or vulnerable adults; and
- making independent barring decisions about people who have harmed or are considered to pose a risk of harm to a child or vulnerable adult within the workplace.

42. When engaging a person to work with children (or vulnerable adults), the institution or setting is responsible for complying with safer recruitment measures.

43. Some settings may be required by specific statutory guidance to obtain DBS checks. For example, Keeping Children Safe in Education 2021 places an obligation on schools to obtain the appropriate level of DBS check before making an offer of employment for any role. There is, however, no legal obligation to do so for many employers.

44. Applying for the appropriate level of DBS check – a disclosure certificate – is an essential part of safer recruitment because it contains details of an individual’s criminal record. It (a standard or enhanced certificate) will include convictions and cautions which may be spent or unspent under the Rehabilitation of Offenders Act 1974 and subject to the DBS filtering rules which remove certain older convictions and cautions, albeit not those concerning specified offences (which include violent and sexual offences and offences against children). It can therefore provide an employer with important information about an individual’s criminal background and their suitability to work with children (and/or vulnerable adults).

45. The disclosure regime is framed in terms of eligibility for a particular level of check. It is not generally compulsory for employers to obtain a DBS check on a prospective employee. The DBS issues four types of certificate, the extent of the check for each depending upon the role to be undertaken.

Type of Check	Certificate contains	Roles eligible	Who can apply for a certificate	Number issued in 2020/2021
Basic certificate	Details of convictions and cautions that are unspent under the Rehabilitation of Offenders Act 1974	Any role (basic checks can be obtained at any time not only for a job application)	The individual named on the certificate, or the employer with the individual’s permission	2.2 million

Type of Check	Certificate contains	Roles eligible	Who can apply for a certificate	Number issued in 2020/2021
Standard certificate	Details of unspent and spent convictions, adult cautions (subject to filtering rules)	Certain roles specified in legislation (such as solicitors, barristers, accountants and actuaries) which involve a degree of public trust	Employers (including agencies) registered with the DBS, with the individual's consent	343,000
Enhanced certificate	The same information as standard certificates but also information that the senior officer of the local police force reasonably believes is relevant and ought to be disclosed*	Roles working with children and vulnerable adults, and other positions involving a high degree of trust	Employer (including agencies) registered with the DBS, with the individual's consent	168,000
Enhanced certificate with barred list check	Barred list checks are only available with an enhanced certificate, and are not available as a standalone check	Regulated activity or a purpose prescribed in legislation e.g. taxi drivers	Regulated activity provider, (employer, including agencies), registered with the DBS, with the individual's consent Licensing authority	3 million

* The reference in the table to 'information that the senior officer of the local police force' etc refers to information that is held on local police records about the individual, which the chief officer reasonably believes to be relevant and ought to be included in the certificate.

48. [Extract] Regulated activity does not mean, however, that the activity itself is regulated by any supervisory body, or that the worker engaged in such activity is regulated by a professional regulatory body. Many of those engaged in regulated activity with children (or vulnerable adults) are working in occupations that are not subject to workforce regulation, and in settings that are not regulated by any statutory regulatory authority.

49. Regulated activity has a complex definition, set out in the Safeguarding Vulnerable Groups Act 2006. It includes the following activities, provided they are done frequently or for more than three days in a 30-day period or between 2.00am and 6.00am:

- teaching, training or instruction, care or supervision of children (unless the worker or volunteer is supervised on a day-to-day basis by someone in regulated activity);
- moderating a web service wholly or mainly for children;
- providing guidance or advice, other than legal advice, wholly or mainly to children; and
- driving a vehicle for children.

It also encompasses those who work (other than under a contract for temporary or occasional work or supervised volunteers) for the same specific frequency in roles where they have the opportunity to come into contact with children in specified establishments, such as educational establishments (including nurseries), detention facilities for children and secure accommodation, children's homes, children's centres and childcare premises.

50. Some activities (such as the provision of personal care or healthcare and registering to be a foster carer or childcare provider) are also deemed to be regulated activity, regardless of where they take place or how frequently they are performed. For example, certain statutory functions such as the inspection of childminding provision, schools, education and training, religious education and the review of local authority children's services are also regulated activities where they give the person the opportunity to have contact with children.

53. Roles which are within the statutory definition of regulated activity with children and/or vulnerable adults are eligible for an enhanced certificate with a barred list check. A barred list check can only be obtained by an employer in conjunction with an enhanced certificate – it is not available as a standalone check. If an individual applies for a role working with children or vulnerable adults which does not fall within the definition of regulated

activity, only an enhanced certificate (without a barred list check) is available, unless the work falls within the 'other workforce' roles prescribed in legislation.

The Review findings

1. Regulated activity

Definition of regulated activity

11. I now turn to the review and begin with the definition of regulated activity. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 provides for the disclosure of matters that would be considered spent under the Act and sets out an exhaustive list of the groups to which it applies, who are thereby eligible for a standard certificate. The purposes for which an enhanced certificate may be required are prescribed by the Police Act 1997 (Criminal Records) Regulations 2002 and known as 'prescribed purposes'. In relation to obtaining an enhanced certificate when considering a person's suitability for working with children or vulnerable adults, the regulations require the work to fall within the definition of 'regulated activity' provided by Part 1 (children) and Part 2 (vulnerable adults) of schedule 4 of the SVGA 2006. There is no exhaustive list. The definition is general, simply because the variety of these roles is such that it would not be possible to produce such a list.

12. Whereas I have received no submissions upon the definition of regulated activity relating to vulnerable adults, the unanimous submission of the stakeholders with whom I have engaged, and who expressed a view, is that the definition of regulated activity relating to children is difficult to understand.

13. In my judgment, those submissions are correct. I am fortified in that conclusion by the IICSA report which describes the statutory definition as 'complex and difficult for employers to understand'. In part this complexity arises from amendments contained in the Protection of Freedoms Act 2012, introduced by the coalition Government with the declared intention of scaling back the vetting and barring scheme to common sense levels. Section 64 of that act restricted the scope of regulated activity as it related to children and excluded roles that were subject to 'day to day supervision' by another person. I quote from the IICSA report Part II, paragraph E.3:55.2:

In 2012 the definition of regulated activity was narrowed to exclude roles which are subject to “day to day supervision” by another person who is engaging in regulated activity. As a result, a role may involve a degree of close contact with children but may not fall within the statutory definition of regulated activity (such as volunteers supervised to a greater or lesser degree by a member of staff). The legislation states that a person does not engage in regulated activity if they are subject to “such day-to-day supervision as is reasonable in all the circumstances for the purpose of protecting any children concerned”. Guidance states that the appropriate level of supervision is a matter for the employing organisation to decide. This compounds the difficulty organisations face when trying to understand which roles are regulated activity.

Conclusion on the exemption for supervised roles in regulated activity

14. It appears to me that the approach adopted in 2012, so far as it related to excluding ‘supervised’ roles, focused on potential abuse occurring in the workplace. Whether or not that approach was correct in the context of that time, it is clear to me that it cannot be correct now. Supervision of individuals having close contact with children cannot prevent those who are so inclined using the opportunity that contact provides to establish relationships which they can then exploit outside the workplace. In my judgment, it is essential that those who are making decisions about the suitability of individuals to work with children, supervised or unsupervised, should have access to the barred list.

15. In this regard I agree with IICSA Recommendation 9: ‘Greater use of the barred list’ and the reasoning behind it.

Recommendation 1: Amendment to the definition of regulated activity

16. I recommend that the definition of regulated activity relating to children be amended to remove the exemption for supervised activity.

Conclusion on the complexity of the definition of regulated activity

17. I have drawn attention to the complexity of the definition and the acknowledged difficulty it causes to those who must apply it. I recognise that the definition is, of necessity, detailed. I am not suggesting that the meaning of the definition be altered. However, I have concluded that it is desirable, if possible, to provide greater clarity. I have considered whether I could propose a draft that is easier to understand. However, I recognise that that is a task for those competent in the art of parliamentary drafting so I limit myself to recommending that it should be attempted.

Recommendation 2: Redrafting the definition of regulated activity

18. I recommend that consideration be given to amending the definition of regulated activity with the aim of making it more easily understood by those who must apply it.

2. Issues raised by IICSA and the International Development Committee

UK nationals or residents working overseas: the legal position

19. If a contract for employment overseas, and therefore the employment decision itself, is made within the jurisdictions covered by the DBS, the disclosure and barring regime applies and the employer can obtain DBS criminal record checks according to the eligibility of the role. Aid agencies, for example, can and do conduct checks on staff they are posting overseas. However, if the contract is made outside the jurisdiction, even if the proposed employee is a national or resident here, the role is not eligible for a DBS check. However, in those circumstances, an employer can require an employee or applicant for employment to obtain an International Child Protection Certificate (ICPC) from the ACRO Criminal Records Office. This certificate will confirm whether or not the individual has a criminal history and provide details, including relevant conviction and non-conviction data.

The relevant Terms of Reference

20. My terms of reference include:

“ ‘...the definition of regulated activity, including issues raised by the Independent Inquiry into Child Sexual Abuse (IICSA), the International Development Committee...’ ”

21. This could be read as directing me to issues raised by IICSA and the IDC upon the definition of ‘regulated activity’. Apart from its reference to the complexity of the definition and the difficulties caused thereby, IICSA has raised no issue upon the definition itself nor has the IDC. However, there is a related issue common to both, namely concern over the regimes governing disclosure of criminal records for people working overseas. IICSA’s focus is on people working with children whereas the IDC’s concern is people working in the International Aid Sector with both children and adults. Both have made recommendations in relation to UK nationals or residents, who apply to work in, or volunteer for, roles that might be regulated activity if carried out within the jurisdictions covered by the DBS.

22. This position of UK nationals and residents working with children or adults in the aid sector is well trodden ground, and it may be helpful for me to assist the reader’s understanding by providing some history of IICSA’s and the IDC’s involvement.

IICSA

23. In January 2020, IICSA published a report entitled ‘Children Outside the United Kingdom Phase 2 Investigation’ with sub-titles:

- The protection of children outside the United Kingdom and
- Travel restriction orders, extra territorial prosecutions and disclosure and barring regimes.

24. I will restrict myself to the area of disclosure and barring.

25. In that report, IICSA made recommendations in respect of the disclosure and barring regime in relation to persons working with children overseas. I will set out those recommendations together with the Government’s response. I recognise that this is somewhat cumbersome, but necessary to avoid the reader having to consult other documents to understand the arguments.

26. IICSA Recommendation 3:

Disclosure and barring – extending the geographical reach of the Disclosure and Barring Service scheme

The Home Office should introduce legislation permitting the Disclosure and Barring Service to provide enhanced certificates to UK nationals and residents of England and Wales applying for (i) work or volunteering with UK-based organisations, where the recruitment decision is taken outside the UK or (ii) work or volunteering with organisations based outside the UK, in each case where the work or volunteering would be a regulated activity if in the UK.

Government response

27. I set out the Government's response below:

The Government shares the Inquiry's concerns that effective protections should be in place for children abroad. Criminal record checks are an important part of these protections, and the Government wants to ensure that overseas employers are able to access the information that they need when recruiting UK residents to work with children.

Under current arrangements, individuals applying to work in a school or organisation outside the UK where they will be in regular contact with children can apply for an International Child Protection Certificate (ICPC). This is produced by ACRO Criminal Records Office (a national policing unit which provides criminal records information services to policing bodies and individuals) in conjunction with the National Crime Agency (NCA). The ICPC details the individual's criminal record history in the UK and any relevant information or intelligence on police databases which the NCA deems appropriate for disclosure.

The Government has considered carefully the Inquiry's recommendation which for overseas employers would replace the ICPC with the Enhanced Certificate currently issued by the Disclosure and Barring Service in England and Wales in respect of regulated activity. While the Government agrees with the Inquiry that overseas employers should be able to access criminal records information as effectively and straightforwardly as possible, it is not persuaded that this would be the effect of this recommendation.

The information provided on an ICPC is broadly similar to that provided on an Enhanced Certificate, albeit without a check of the Children's Barred List. In practice the majority of individuals on the DBS's Children's Barred List have a record of convictions, cautions and police intelligence, which can be shared with prospective overseas employers through the ICPC. In other words, although the fact that an individual has been barred will not be disclosed on an ICPC, the information which led to their being barred will in most cases have been recorded by the police so can be disclosed.

Extending the availability of the Enhanced Certificate abroad would also require overseas employers to assess whether the work for which they are recruiting meets the definition of regulated activity for England and Wales as set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006. The ICPC sits outside the domestic statutory disclosure framework and disclosure of information is based on police common law powers. The only criterion which needs to be met in order to obtain an ICPC is that the work in question is in a school or organisation outside the UK which involves regular contact with children. Given that the scheme needs to apply to a range of situations in any country across the world, this simpler test is likely to be much easier for foreign employers to apply in practice.

The ICPC is well recognised and used internationally. Between 1 October 2019 and 30 September 2020, there were 10,903 ICPC application requests and 700 new organisations added to the ICPC records. Each month, ICPC applications are processed in an average of around 60 countries within a broader subset of over 130 countries on the ICPC's records. The Inquiry itself commented that no other country operates such a scheme. The Government notes the concerns expressed by the inquiry that the differences between the ICPC and DBS create a lack of clarity for employers but thinks that the most effective way of addressing this is to build on the existing system.

The Government will continue to work with ACRO to publicise the existence of the ICPC (see recommendation 5 below) and to improve employers' understanding of it and when it can be used, particularly in the aid sector through existing channels.

28. IICSA Recommendation 4:

Disclosure and barring – extending the mandatory nature of disclosure and barring

The Home Office should introduce legislation making it mandatory for:

- a. all UK nationals and residents of England and Wales to provide a prospective employer overseas with an enhanced DBS certificate before undertaking work with children overseas which if in the UK would be a regulated activity and
- b. UK Government departments and agencies to require their overseas partners to ensure that UK nationals and residents of England and Wales obtain an enhanced DBS certificate before undertaking work with children overseas which if in the UK would be a regulated activity.

Government response

29. Again, I set out the Government's response below:

We have considered carefully the recommendation to introduce legislation to make it mandatory for UK nationals and residents of England and Wales to provide prospective employers with an enhanced DBS certificate before undertaking work overseas which would be regulated activity if it took place in the UK. As indicated above, the Government recognises the value of any employer being able to use criminal record information as part of their recruitment process and is committed to ensuring that overseas employers are able to access the information they need when making recruitment decisions in respect of UK residents.

However, although this recommendation envisages placing the legal obligation on UK nationals, it would in effect amount to the UK Government legislating in respect of employment practices in foreign countries. Foreign employers have to work within their own domestic disclosure regimes which are very different across the world, where they exist, and this recommendation would require foreign partners to undertake checks as if they were in England and Wales, with no regard for their domestic requirements.

Such an approach would require extraterritorial legislation, compliance with which would be almost impossible to monitor and subsequently very difficult to enforce. We do not consider that such an approach would be effective in increasing safeguarding in other countries.

As indicated above, we will continue to publicise the existence of the ICPC to workers and employers and through the ongoing work of FCDO to improve safeguarding standards across the aid sector.

As far as the second part of the Inquiry's recommendation is concerned, we recognise the need for Government bodies to take reasonable steps to ensure that overseas partners have robust safeguarding policies and that those partners carry out all appropriate criminal records checks, along with

broader recruitment checks such as references. FCDO is working on 3 initiatives to strengthen the employment cycle across the aid sector that aim to prevent individuals with a known history of misconduct from working in the sector, regardless of their nationality. Together, they will help employers make better informed hiring decisions and prevent perpetrators moving around undetected:

- project Soteria uses INTERPOL's tools and services to better coordinate international law enforcement to limit access to jobs in the aid sector for sexual offenders;
- the Misconduct Disclosure Scheme provides a framework for organisations to legally share information about a past employee's history of sexual misconduct at work; and
- the Aid Worker Registration Scheme will provide employers with a trusted source of evidence about a potential employee's identity and past work

history, closing the loop on those who lie or omit information about where they have worked in the past.

Government's further response

30. Following the first response, IICSA wrote to the Government requesting it to reconsider. In a letter dated 21 June 2021, the Government set out its reasons for declining this invitation. It informed the Inquiry that:

“ ...the Foreign, Commonwealth and Development Office has set up a working group with the Home Office, Disclosure and Barring Service, ACRO and the Charity Commission to look at the issue of criminal record checks for the international aid sector. The group is working with safeguarding professionals from the UK aid sector to explore the issues faced by organisations in checking criminal histories of potential employees, what can be done within the existing framework, and also where there may be gaps or issues that need addressing.”

IICSA Final Report

31. In its final report, published in October 2022, IICSA repeated recommendation 3 (as Recommendation 11 in the final report), but not recommendation 4 (which would make the provision of enhanced certificates mandatory).

IICSA Recommendation 11:

Extending disclosure to those working with children overseas

The Inquiry recommends that the UK Government introduces legislation permitting the Disclosure and Barring Service to provide enhanced certificates with barred list checks to citizens and residents of England and Wales applying for:

- work or volunteering with UK based organisations, where the recruitment decision is taken outside the UK; or
- work or volunteering with organisations based outside the UK, in each case where the work or volunteering would be a regulated activity if in England or Wales.

Conclusion on the issues raised by IICSA

32. I have not found any reasons to recommend departure from the Government's detailed response to the original recommendation 3 in relation to recruitment decisions taken outside the UK, which was repeated in the final report. However, having regard to the fact that IICSA repeated it, I would expect the Government to review the matter.

33. I now turn to the issues raised by the IDC.

Issues raised by the International Development Committee and response of the FCDO

34. In 2018, the House of Commons International Development Committee (IDC) began inquiring into sexual exploitation and abuse and sexual harassment (SEAH) in the aid sector. It has published several reports.

35. In October 2018, the UK Government hosted a summit in London under the auspices of the Department for International Development (DFID), now merged with the Foreign and Commonwealth Office to form the Foreign, Commonwealth and Development Office (FCDO), called the 'London Summit on Safeguarding'. The purpose of the meeting was to drive collective action to prevent and respond to SEAH in the aid sector.

36. In January 2019, the Steering Committee for Humanitarian Response launched the Inter-Agency Misconduct Disclosure Scheme (MDS). The scheme holds no information on specific cases of abuse. Its website states that 'it facilitates the systematic bi-lateral sharing of misconduct data between recruiting organisations and previous employers.' It does not collect data on the extent of implementation. It is supported by the FCDO. The FCDO 'Progress Report on SEAH in the International Aid Sector 2019-2020' stated that in 2019, its first year of operating, the scheme received over 2,900 requests for misconduct data of which 2,100 received responses and prevented 36 people from being hired. By November 2022, over 29,000 checks had been conducted using the MDS, resulting in over 140 applications being rejected at the final stage of recruitment. Over 160 organisations are using the scheme.

37. In May 2019, the Aid Worker Registration Scheme Steering Committee was established. The committee commissioned a legal review from Hugh Davies KC to examine the legal basis for the establishment of a sector-wide Aid Worker Registration Scheme, which would link an individual's work history to a confirmed identity.

38. In June 2020 the legal review made 4 recommendations, which were accepted by the committee. The recommendations were:

1. No single regulator for the international aid sector to receive and control misconduct data from international aid organisations. (Legal difficulties; Scale of the task renders it impracticable; Adverse consequences.)

2. Donors to mandate as a condition of funding:

i. registration with the inter-agency misconduct disclosure scheme; and
ii. registration of basic details of qualifying employees on a new central aid worker register with biometric and concurrent alternative technical means of non-biometric identity verification.

3. Donors to mandate partners as a condition of funding adherence to minimum core safeguarding standards and independent inspections.

4. Donors to mandate partners as a condition of funding reporting of relevant safeguarding and misconduct data to donors and defined third parties.

39. It was agreed with DFID that a consultation process with stakeholders in the international aid sector would then take place.

40. In October 2020, the FCDO published a second annual update 'Progress Report on SEAH in the International Aid Sector 2019-2020'; it set out two developments:

i. Project Soteria, a UK funded programme with INTERPOL to strengthen the vetting of potential aid workers would start implementation in 2021.

ii. The department was collaborating with an expert steering committee to develop an Aid Worker Registration Scheme to verify workers' identities and work histories. The department had mapped similar systems, completed a legal review and consultation and planned to pilot the scheme in 2021.

The 2020-2021 FCDO Progress Report on SEAH in the International Aid Sector published in December 2021 confirmed that Project Soteria had moved into the implementation phase. The project is now fully operational following a successful inception phase. Work to design the pilot of the Aid Worker Registration Scheme continues, while also exploring whether its main aims could be achieved through the MDS or Project Soteria given that consultation with the sector has not yet shown a clear appetite for a separate scheme.

41. On 14th January 2021, the IDC published a report in which it referred to 'employment cycle schemes' designed to prevent perpetrators being re-hired within the aid sector. In this context it referred to the Misconduct Disclosure Scheme, Project Soteria and the Aid Worker Registration Scheme. At paragraph 100, the committee recommended that:

“ The Government should amend the regulations to designate aid work as a regulated activity, requiring aid workers to undertake an Enhanced DBS check before they can work with aid beneficiaries.”

Conclusion on the issues raised by the IDC

42. As I read the recommendation it does not appear to distinguish between aid workers whose contracts of employment are made outside the jurisdiction and those whose contracts are made within it for posting overseas. As to the former, it seems to me that the Government’s detailed response to IICSA in relation to mandating enhanced checks has equal application.

43. In respect of those whose contracts are made here for posting overseas, the situation is different. Currently, aid agencies do conduct checks, certainly in relation to those who work with children. I am not aware of aid workers whose roles would be restricted to contact with adults. However, recent history has revealed instances of aid workers exploiting their positions in relation to adults, who, although in ordinary language might be regarded as vulnerable because of their need of help or assistance, would not fall within that definition for the purposes of an enhanced DBS check. I have concluded that legislation should clearly provide that aid workers whose contract of employment in respect of adults or children is made here should be eligible for enhanced criminal record checks with barred list checks. I note that, recently, the Government achieved this for those who were offering homes to refugees from the war in Ukraine by amendments to the relevant statutory instruments.

Recommendation 3: Aid workers and enhanced checks

44. I recommend that the legislation governing enhanced checks with barred lists checks is amended so that aid workers, who are nationals or residents here, whose contracts of employment are made here and whose work would bring them into contact with aid beneficiaries overseas are eligible.

3. The self-employed

45. Under the current regime, the self-employed cannot apply for a standard or enhanced DBS check, regardless of the activity being undertaken unless they are working for an agency or in regulated sectors where a regulatory, licensing or other body with oversight of the sector can apply for checks on the self-

employed individual's behalf. This is because the wording of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 only allows the 'excepted question' (that is asking about otherwise spent convictions) to be asked by any person, in the course of the duties of their office or employment, in order to assess the suitability of an applicant for the eligible role.

46. There are many examples of self-employed persons working in regulated sectors, who can obtain an enhanced check. By way of examples, these include: taxi and private hire vehicle drivers licensed by a local authority; child-minders registered with Ofsted or a child-minding agency; and many others working for registered bodies such as local authorities or working through an employment agency. However, there are many roles and activities where the self-employed are not carrying out work in a sector that is regulated or working through an employment agency, and so unable to get anything other than a basic DBS check. A simple but striking example is a self-employed music teacher or tutor giving lessons as part of a private arrangement (as opposed to through a school or agency). They cannot get an enhanced with barred list check whereas, if they were employed in a school, they would be required to obtain such a check.

47. This anomaly appears likely to have arisen because those who originally devised the scheme focused on providing employers with the assistance they needed to make decisions about the suitability of individuals for employment in the role for which they were applying. Whilst those who engage a self-employed person to provide them with a service are not 'employers' as such, it appears self-evident that they are also making a suitability decision, but, in their case, they cannot ask for a DBS certificate beyond one that arises from a basic check.

48. In the course of stakeholder engagement, this anomaly was frequently raised as a vulnerability within the scheme, particularly by organisations engaged in the sports sector. However, it is by no means limited to that sector but applies to a very wide range of sectors or areas of activity. When it came to considering solutions to this vulnerability, there was no unanimity of approach. For example, Sport England commissioned the Chartered Institute for the Management of Sport and Physical Activity (CIMSPA) 'to develop and consult widely on a proof of concept model for a national workforce register for sport'. In 2019, CIMSPA produced a 15-page document entitled Workforce Registration and Regulation Consultation. A reading of that report only serves to underline the complexity of the issue and the widely differing views as to solutions.

Ministry of Justice and Home Office

49. Beginning early in 2021, in recognition of this vulnerability, the Ministry of Justice and the Home Office undertook a cross-Government feasibility study into creating eligibility for enhanced criminal record checks for those who are

self-employed, so that all those working with children and vulnerable adults are subject to the same standard of checks. They have been examining ways of creating eligibility for enhanced criminal record checks for those who are self-employed, to ensure that eligibility is determined by the nature of the role carried out rather than by employment status. During that time, they have engaged with other Government departments in joint workshops, surveys and meetings with each department or sector within a department.

50. I have been provided with a progress report dated March 2022 (approximately 12 months after the study began), together with documents setting out the responses of Government departments and stakeholders. The progress report demonstrates that there are very large numbers of self-employed persons engaged in activities which fall within the definition of regulated activity, but no single obvious solution to providing the appropriate level of criminal record check for this cohort. The study is not complete. Those engaged in the study have a provisional completion date of Spring 2023. No specific solution has been proposed but currently there are four under consideration namely:

- Broad sectoral regulation with a supporting Regulatory Body (currently in place for particular professions in some sectors)
- Voluntary Sectoral Accreditation Body (Membership) (currently in place for particular professions in some sectors)
- Sectoral Accreditation Body (Vetting)
- Self-employed enabled to apply for enhanced check on their own behalf.

51. I emphasise that the study is not complete, but it seems to me that the extension of the first two options or introduction of the third, are likely to require substantial and costly bureaucracies, and would each be in danger of foundering on the rocks of cost and complexity.

52. The fourth option has the advantage of simplicity although requiring a change in legislation to introduce. The self-employed person would apply to the DBS for an enhanced certificate (including a check of the relevant barred list) setting out the work that they are seeking to do. If the work involved contact with children or vulnerable adults, which would bring the applicant into regulated activity, DBS would provide the appropriate barred list check along with the enhanced check. There remains the problem that the application would not be overseen by a regulating body and so not mandatory. Further, it may well be that a person who knew that their criminal record would be unlikely to recommend them to a potential user of their services would not go to the trouble of making an application. These problems could be mitigated by a publicity campaign encouraging members of the public, considering using the services of a self-employed person, paid or unpaid, in an activity that involves contact with children or vulnerable adults, to ask to see a DBS certificate.

Conclusion on the self-employed

53. I have concluded that the widespread concern that the ineligibility of the self-employed to apply for an enhanced certificate with barred list check is a vulnerability in the safeguarding regime is soundly based.

Recommendation 4: The self-employed

54. I recommend that self-employed individuals, paid and unpaid, seeking to work with children or vulnerable adults are rendered eligible to apply for an enhanced DBS certificate with the relevant barred list(s) check.

4. The eligibility of local councillors for criminal record checks

55. The terms of reference for the review include the heading: 'eligibility of local councillors for checks'. The generality of this heading might lead to a mistaken interpretation that the review was somehow directed at, or engaged in, a consideration of the suitability of persons to stand for election as local councillors. That is not the case as the stated purpose of the review makes clear namely: 'To provide assurance to Ministers about the effectiveness of the disclosure and barring regime in safeguarding children and vulnerable adults.' The disqualification of persons from standing for election to, or being members of, councils is governed by the provisions of the Local Government Act 1972 and the Local Government (Disqualification) Act 2022. They fall completely outside the area covered by this review.

56. Why then has the eligibility of local councillors for criminal record checks been included in the review? 'Local councillor' can cover the members of all councils from the very large Unitary Authorities and Upper Tier Councils down to the smallest Parish Council. Only Unitary Authorities and Upper Tier Authorities have responsibility for social services including children's services. (I will refer to them both as 'councils'). The work of the elected members of these councils may involve them taking decisions about the care of children and vulnerable adults, thus falling within the area of safeguarding with which the review is concerned.

The current position

57. I have had neither the time nor the resources to consult the relevant councils, (there are 174 unitary and upper tier local authorities in England and Wales), to establish what is the current position and practice in relation to obtaining criminal record checks for councillors. To obtain the necessary information, I have consulted officials from the Department for Levelling Up, Housing and Communities (DLUHC) and through their kind offices spoken with members of the DLUHC Monitoring Officers Group who liaise with the department on local Government standards and conduct matters.

58. There is no uniformity of practice among councils in relation to obtaining criminal record checks for safeguarding purposes. When a child comes into care, the council becomes the Corporate Parent. Put simply, the term 'Corporate Parent' means the collective responsibility of the council, elected members, employees, and partner agencies, for providing the best possible care and safeguarding for the children whom they look after. It appears that some councils obtain higher level (enhanced) criminal record checks for all elected members regarding them all as falling within the term corporate parent. However, it is my understanding that this concept does not confer eligibility. Others obtain the checks in respect of councillors prior to their appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults to assess their suitability for involvement in those decisions. It appears that there are some councils which do not obtain DBS checks at all. For the reasons referred to above, I have been unable to establish the figures for those that do and those that don't. In my judgment, this lack of uniformity in approach is in need of correction. Put simply, if a number of councils properly regard such checks as necessary, having regard to their duty to safeguard, how can the need for the checks not apply to all councils having the same duty? That said, it does not seem to me that it is necessary that enhanced checks should apply to all councillors, but rather to those who are being considered for appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults.

Are local councillors in fact eligible for criminal record checks?

59. A basic DBS check can be obtained by any individual for any purpose, so all local councillors are eligible for a basic criminal record check, which discloses all unspent convictions and cautions. Local councillors who have responsibility (e.g. through committee membership) for social services, health and education functions for children or vulnerable adults, are eligible for enhanced DBS checks, which disclose spent and unspent convictions and cautions, subject to filtering rules, and may disclose police intelligence which a chief officer has considered relevant and ought to be disclosed. The legislative basis for the eligibility for enhanced DBS checks for councillors is the Police Act 1997 (Criminal Records) Regulations 2002, as amended in 2013 (by Police Act 1997

(Criminal Records) (Amendment) Regulations 2013/1194 and Police Act 1997 (Criminal Records) (Amendment No.2) Regulations 2013/2669).

Use of the material disclosed in an enhanced record check

60. I did not discover any examples where an enhanced check has revealed material that raised safeguarding concerns in relation to a councillor's suitability to carry out their duties under the council's responsibilities for administering social services, health or education. My understanding is that if that occurred, it would be the responsibility of the council's Monitoring Officer to bring it to the attention of the Chief Executive, who would then be responsible for dealing with the situation.

Conclusion on recommendations in relation to local councillors

61. I have concluded that there should be consistency in the practice adopted by councils in relation to DBS checks and that checks should be carried out where appropriate.

Recommendation 5: Local councillors

62. I recommend that an enhanced criminal record check is made mandatory for all councillors in Unitary and Upper Tier Authorities who are being considered for appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults. I accept that this would require legislation and therefore some inevitable delay, so I further recommend that these authorities are encouraged to adopt this procedure as best practice pending legislation.

5. The Security Industry Authority

63. The Private Security Industry Act 2001 (PSIA) established the Security Industry Authority (SIA) as a corporate body having oversight of the private security industry in the United Kingdom and made it a criminal offence to

engage in 'licensable conduct' except under and in accordance with a licence granted by the SIA, which is responsible for granting, renewing and revoking these licences.

Different SIA licences

64. There are two categories of SIA licence: front line and non-front line. A front-line licence is required if undertaking licensable activity other than key holding activities. The latter is required for certain roles that manage, supervise and/or employ individuals who engage in licensable activity. It is with the former that this review is concerned.

Front-line licences

65. Front-line licences apply to roles that involve a physical presence to carry out the duties. There are a number of categories of which two are relevant to the sphere of safeguarding, namely door supervision and close protection.

Door supervision

66. A door supervisor licence is required if manned guarding activities are undertaken in relation to licensed premises (alcohol and/or entertainments licence), at times when those premises are open to the public.

Close protection

67. A close protection licence is required when guarding one or more individuals against assault or against injuries that might be suffered in consequence of the unlawful conduct of others.

SIA criminal record checks on application

68. The following paragraphs are taken from the written submissions received from the SIA.

- “ The SIA carries out Standard DBS checks on all applicants and takes these into consideration when deciding whether to grant a licence. As you would expect having a criminal record does not necessarily mean that a licence application or renewal will be refused. The SIA is clear with all applicants in its licensing criteria in advance what offences may affect a licensing decision and how it approaches licensing decisions in those cases. The SIA will consider whether the particular offence is considered to be a relevant offence (as set out in pages 42 to 44 in the statutory guidance criteria ‘Get licensed’), the actual disposal given to the applicant and how recent the offence was. Other information can also be considered that may indicate whether the applicant is fit and proper to hold a licence.
- “ This means that even if the applicant or licence holder has been convicted of historic sexual offences or it is known there has been a history of sex offending then the SIA does have a discretion to refuse a licence.
- “ The SIA’s Licensing and Standards function has set up a specific Sexual Offences Group Review Team which meets weekly to discuss and assess sexual offences and offences against children cases to ensure that the SIA systematic, consistent and robust approach between cases, tracks the decisions and appeals process of often more complex cases and is able to monitor the nature and scale of cases.
- “ Alongside the licensing application process the SIA also has systems and processes set up to act on disclosures made about licence holders and considers further regulatory action, including suspension and revocation of licences where appropriate.”

Door supervisors

69. I note that an applicant for an SIA licence specifically consents to the DBS providing the certificate directly to the SIA. The applicant receives a paper copy. The cost of the certificate is paid by the SIA, which charges the applicant that cost as an element in the fee for the application

70. Door supervisors in premises licensed to supply alcohol are very often working in what is referred to as ‘the night-time economy’. Their position invests them with a degree of apparent power and authority. They may be dealing with people who have become intoxicated, whether voluntarily or involuntarily, by alcohol or drugs or both and in that condition may be extremely vulnerable. This contact is not limited to within the premises where they are working but can also take place in the surrounding area. Their work may also bring them into contact with children in premises licensed to supply alcohol or musical entertainment.

71. Recently, there have been notorious cases of serving police officers, persons in a position of authority to whom members of the public would turn for help and protection, who abused their position and committed offences of the gravest kind. I have had to consider the situation where a door supervisor has contact with a person who is vulnerable because they are intoxicated. It is obvious that this would provide an opportunity for abusive conduct. Further, as I have said, their work may bring them into contact with children providing a similar opportunity. The question is whether the risk presented by the existence of that potential opportunity requires an enhanced check with barred list check that, in addition to the criminal record disclosed in a standard check, would disclose whether the applicant was on a barred list and relevant information held by police forces about the applicant.

History of enhanced DBS checks for door supervisors

72. The history of enhanced checks for door supervisors is a relevant consideration for the review and I will set it out.

Independent Review 2002

73. The PSIA, as originally enacted, amended the Police Act 1997 to allow the SIA to obtain an enhanced criminal record check for applicants for a door supervisor licence. However, Section 328 and Schedule 35 of the Criminal Justice Act 2003 amended Part 5 of the Police Act 1997 that set out the statutory framework under which the CRB, the forerunner to the DBS, provided criminal record disclosures for employment vetting purposes and removed the eligibility of door supervisors for enhanced certificates. Thereafter only a standard check was available.

74. The explanatory note to the legislation states that:

“ The changes give effect to a number of the recommendations of the Independent Review Team appointed in September 2002 to take a fundamental look at the operations of the CRB. The amendments to the 1997 Act are designed to improve the efficiency and effectiveness of the CRB so that it can provide greater protection for children and vulnerable adults whilst ensuring that the disclosure process does not act as a bar to speedy recruitment.”

75. This chimes with the information provided to me by the SIA to the effect that at that time there was a backlog of enhanced disclosure checks, and that the SIA was one of the CRB'S biggest customers for those checks.

Further Review 2009

76. I am grateful to the SIA from whose written submissions I have taken the paragraphs below.

“ We understand that in 2009, the then Home Secretary ordered an enquiry following a police enquiry, which involved the arrest of twelve men under the Terrorism Act. Eleven of the twelve had enquired about, held or had held SIA licences. This Review concluded that enhanced disclosures would reveal additional “approved information” over and above a standard check in less than 1% of cases. The Review conclusion, as reported by the Home Office, was that the SIA:

“ ...”remained confident in their current systems, and that they balance the need for security with the individual’s right to privacy... They believe that the introduction of EDs would be disproportionate to the benefit they provide and would not add value to or enhance public protection because the result would be that only a tiny proportion of applicants would have their licences refused... On balance, the costs and effort involved seem disproportionate to the benefits”.”

77. The SIA was informed the reason for this was because it was considered that door supervisors rarely pose a threat to children or vulnerable adults. So that was the position as it stood in 2009.

Number of licences for door supervision and close protection

78. Figures provided by the SIA show that, as of 1 August 2022, the total number of active licence holders across the sector in round terms was something over 400,000 of which door supervision made up 300,000 and close protection 15,000. However, I have been informed by the SIA that a door supervision licence is a popular choice for applicants because it authorises a wide range of activities over and above door supervision. A recent survey of applicants carried out by the SIA showed that less than 20% of applicants intended to work as door supervisors at licensed premises with the remainder intending to work in the Security Guarding sector.

Enhanced certificate disclosure of information

79. The Protection of Freedoms Act 2012 amended the Police Act 1997 so as to raise the threshold for the disclosure of information. The test now limits the

disclosure to matters that the Chief Officer reasonably believes to be relevant, and which, in the opinion of the Chief Officer, ought to be included in the certificate. Previously the test was 'might be relevant'. As was intended, this amendment resulted in a reduction in the number of disclosures. The 2009 Review estimated that disclosure would have been made in less than 1% of cases. Whilst it is impossible to estimate the percentage of cases in which disclosure would be made today, I have proceeded on the basis that there is no reason to believe it would be any higher.

SIA submissions

80. I have received both oral and written submissions from the SIA. It is clear that, in the opinion of the Authority, a proposal to apply enhanced checks to applicants for door supervisors' licences has significant financial implications and raises a number of potential difficulties. Their reasons can be summarised as follows:

- Cost to the applicant:

A standard DBS check costs £18 and an enhanced check £38. The £20 extra per case would need to be passed on to licence applicants even where it would bring back no more information than a standard check.

- Actual number of door supervisors as against the number of applicants:

Less than 20% of applicants for door supervisors' licences intend to work as such.

- Reduction in labour supply due to cost and intrusion:

Labour supply may also be affected through potential licence applicants being deterred by any additional cost and the intrusiveness of enhanced checks and choosing more attractive alternatives in a labour market favouring job seekers.

- Delay in processing enhanced checks:

The processing of enhanced checks will inevitably result in delays in some cases.

- Use of SIA resources:

There would also be further time, personnel resource and processing consequences for the SIA assessing any non-conviction information disclosed and needing to seek further information in order to make a

licensing decision. (Words taken directly from the written submissions.)

- Inability to rely on disclosed information:

In its original reasoning for not supporting a proposal to extend enhanced checks to applicants for a door supervisor's licence, the SIA queried the extent to which it could rely upon disclosed information in its decision making. However, following discussions, that is no longer an issue.

81. I have taken these submissions into account and find:

- Cost to the applicant:

I do not accept that the extra £20 cost is unjustified because relevant information will only be disclosed in a small number of cases. If such an argument were valid, it would apply to all enhanced certificates.

- Actual number of door supervisors as against the number of applicants:

The fact that applicants incur extra cost by applying for a door supervisor's licence, when they do not intend to use it, cannot provide a basis for not extending enhanced checks to this licence, which authorises the holder to work in that capacity and provides evidence that they are considered fit and proper so to do.

- Reduction in labour supply due to cost and intrusion:

Cost: I do not accept that the additional £20 charged in respect of such a licence would deter any or any significant number of applicants, particularly having regard to the fact that that charge is only imposed at the point of application by which time the applicant will have spent several hundred pounds taking and passing the necessary course.

Intrusion: I accept that applicants who believed that they had something to hide would or might be deterred from applying for a licence, but I do not accept that others would be.

- Delay in processing enhanced checks:

The DBS deals with these checks in a timely manner. Such delays as might result would only apply in a small number of cases.

- Use of SIA resources:

Where an enhanced check did disclose information about the applicant that required 'further time, personnel resource and processing consequences for the SIA assessing any non-conviction information disclosed and needing to

seek further information in order to make a licensing decision,' this goes in favour of disclosure and not against it.

Conclusion on recommendations in relation to door supervisors

82. I have concluded that the potential risk to both adults and children posed by encounters with door supervisors justifies, indeed requires, the extra level of safeguarding provided by enhanced DBS checks together with barred lists checks.

Recommendation 6: Door supervisors

83. I recommend that enhanced DBS checks together with barred lists checks are made mandatory for applicants for the grant or renewal of a door supervisor's licence.

Close protection licence

84. Whereas an applicant for a door supervisor licence was originally subject to an enhanced check, this was not the case for a close protection licence where a standard check has always applied. The work of close protection licence holders employed to protect adults may bring them into close contact with children who are members of the family. They may also be specifically employed to protect children. In both cases a relationship of trust and confidence is likely to be established. I pay particular attention to this relationship that may be established with children, and which leads me to my conclusion.

Conclusion on recommendations on close protection licences

85. I am satisfied that the extra level of safeguarding provided by enhanced DBS checks together with a check of the children's barred list ought to be provided.

Recommendation 7: Close protection licences

86. I recommend that enhanced DBS checks together with children's barred list checks are made mandatory for applicants for the grant or renewal of a close protection licence.

6. Employment involving the deceased

87. My review was announced by the Government on 24 February 2022. The purpose of the review was stated to be:

“ to provide assurance to Ministers about the effectiveness of the disclosure and barring regime in safeguarding children and vulnerable adults.”

One of the areas upon which the terms of reference stated that the review would focus was:

“ The use and effectiveness of criminal record checks for employment which involves the deceased.”

88. I confess that I did not at first appreciate that the declared purpose of the review and that area of focus did not share any common ground unless one were to stretch the meaning of 'children and vulnerable adults' to include the deceased, which in my judgment would involve distorting the plain meaning of the stated purpose. However, I have been faithful to the terms of reference and considered this area.

Independent Inquiry into the issues raised by the David Fuller case

89. I now turn to the inquiry currently being conducted by Sir Jonathan Michael. For reasons that will become clear, I will set out the history and extent of that inquiry in some detail.

90. On 8th November 2021, the Secretary of State for Health and Social Care announced an inquiry into the issues raised by the David Fuller case. During an investigation into two murders committed by David Fuller, the police had uncovered offences carried out by him against the bodies of women and children in the mortuary of Maidstone and Tunbridge Wells NHS Trust. The Trust had already begun an inquiry chaired by Sir Jonathan Michael, but this

was now replaced by an independent inquiry with Sir Jonathan as its Chair. The Secretary is Rebecca Chaloner. They are supported by an Inquiry team.

91. The Terms of Reference stated that the Inquiry would be split into two phases:

- an initial report, on matters relating to the Maidstone and Tunbridge Wells NHS Trust, reporting by the middle of 2022; and
- a final report, on the broader national picture and the wider lessons for the NHS and for other settings, reporting by the middle of 2023.

92. The detailed Terms of Reference for Phase 2 are:

- To consider whether procedures and practices in hospital settings, including in the private sector, where bodies of the deceased are kept, safeguard the security and dignity of the deceased, and would prevent a recurrence of matters raised by the case of DF.
- To consider whether procedures and practices (including the use of locum Anatomical Pathology Technologists) in non-hospital settings, including local authority mortuaries, funeral directors, the NHS ambulance service, medical schools, temporary mortuaries, direct funeral companies and hospices, where bodies of deceased are kept, safeguard the security and dignity of the deceased, and would prevent a recurrence of matters raised by the case of DF.
- To consider the role of regulators and their use of regulatory measures in assuring that mortuary practices safeguard the security and dignity of the deceased in all settings, and hence the effectiveness of the national regulatory regime.
- To consider any other issues that arose during phase 1 of the Inquiry.

93. The Inquiry will:

- Produce a Phase 1 report on its findings and recommendations on issues arising from its consideration of events at Maidstone and Wells NHS Trust and identify areas of concern for the wider NHS to be aware.
- Produce a final report which will provide an overview of the information it has reviewed, and which will set out the Inquiry's findings and its recommendations.

94. In May and October, the Inquiry published an update on its process. The October update reported that:

“ The volume of evidence the Inquiry has and continues to receive, and the number of witnesses to interview, is far greater than anticipated. In order to ensure all evidence is considered and analysed thoroughly, the Inquiry will require more time than originally planned. Sir Jonathan Michael and his team are committed to being thorough and will balance that with working at pace.

“ This means that the Inquiry’s initial report on matters relating to the Maidstone and Wells NHS Trust will now be published in the first half of 2023.”

95. It is worth noting that the interview sessions involve a panel of at least three people, chaired by a member of the Inquiry team, questioning the witnesses. The evidence is audio recorded and transcribed in full.

Consultation with the Inquiry

96. In the early stages of my Review, contact was made with the Secretary and Assistant Secretary. Subsequently, I spoke in person to them and to Sir Jonathan. Everything that I learned from them, together with the details of the Inquiry’s scale, scope and resources, which I have set out above, makes it abundantly clear that the Inquiry’s examination of the arrangements for protecting the security and dignity of the bodies of the deceased is being, and will continue to be, conducted in greater depth and detail than I would have been able to do.

Human Tissue Authority

97. The Human Tissue Authority (HTA), established by the Human Tissue Act 2004, has among its functions the statutory responsibility for licensing and providing regulatory oversight of places where post-mortem examinations take place. One of its declared guiding principles is the vital importance of maintaining the dignity of the deceased. As a result of the matters revealed in the Fuller case, it has already completed a review of the wording and guidance of its standards broadly concerned with effective control and monitoring of access and storage arrangements that maintain the dignity of the deceased, and oversight of visitors and contractors.

98. The review of the guidance has resulted in some sections being updated to make them clearer and to reinforce the importance of establishments considering all risks to the dignity of the deceased. The functions of the HTA are entirely outside the area of my Review. Nonetheless, its actions and recognition of the need not to pre-empt the findings and recommendations of Sir Jonathan Michael’s Inquiry, which it acknowledged in its advice to the Secretary of State reporting on this review, reinforce my conclusion set out below. (I make it clear that my reference to the HTA’s updated guidance is my own and not the product of my consultation with the Inquiry.)

Conclusion on recommendations in relation to criminal record checks for employment which involves the deceased

99. I have concluded that Sir Jonathan Michael's Inquiry will be in a far better position than I to make any recommendations about the use and effectiveness of criminal record checks for employment which involves the deceased to achieve the purpose of protecting their security and dignity. It also follows that, were I to make any recommendations, no action could, in the circumstances, sensibly be taken upon them without awaiting Sir Jonathan's final report. Accordingly, I am satisfied that it would not be possible for me to better any recommendations in that report, nor would it be in the public interest for me to try.

100. I said at the outset that I would set out the history and extent of that Inquiry in some detail for reasons that would become clear and I have done so in order that any reader of the Review will be able to understand why I have declined to attempt any recommendations in this area.

7. Name change

Background

101. The mechanisms by which an individual can change the name under which their birth was registered by completing either an enrolled or unenrolled deed poll, is straightforward and easy to carry out. Once a name change has been achieved, that person can go on to obtain other documents such as passport or driving licence in their new name. It is not disputed that individuals use the system for varied and perfectly proper reasons. However, concerns have been raised in a number of quarters, and in the media, that the system has been exploited by convicted sex offenders in order to circumvent the current DBS identity validation process (IDV) and avoid past offences being disclosed on a DBS check. On occasions this has been confused or conflated with cases where an offender has changed their name and gone on to commit further offences but made no attempt to obtain a false DBS certificate. I must confine myself to the question of a name change being used to circumvent the DBS IDV process.

Transgender applicants

102. For transgender applicants the completion of an application for a DBS certificate may be of particular concern requiring as it does the disclosure of extensive personal information, including any names the applicant has used in the past. On the one hand, the fact that they may have transitioned since they were cautioned for or convicted of criminal offences cannot be a reason for not disclosing to potential employers relevant previous convictions. It is after all a criminal record certificate. On the other hand, transgender employees may experience bullying or other negative treatment in the workplace so that, understandably, they would prefer to keep this information from their employer.

103. The DBS has a Sensitive Applications Team that provides a confidential service for transgender applicants to help protect their identity in accordance with the Gender Recognition Act 2004 and the Equality Act 2010. I am satisfied that the system in place protects applicants in this position whilst at the same time ensuring the proper disclosure of any criminal record they may have.

Evidence of name change circumventing the DBS IDV process

104. It has been asserted that this ability to change name has led to significant numbers of convicted offenders obtaining DBS certificates that did not reveal their convictions. I have been unable to uncover reliable evidence that this is in fact the case. The evidence appears to be anecdotal. Nonetheless, that there is a risk is demonstrated by a notorious case in 2021 where a convicted sex offender, having used a name change and forged documents to obtain a passport, went on to obtain employment with children in Spain and commit further offences. I note that this offender did not attempt to use the name change to obtain a false certificate.

Risk of name change circumventing the DBS IDV process

105. In my judgment, when considering the risk, two matters must be borne in mind, namely:

- a. If an individual sets out to obtain a DBS certificate that does not show their convictions for sexual offences, there is a very high risk that their purpose is to obtain work which would provide opportunities for committing further offences.
- b. If they are successful, that will not be discovered unless and until further offences are uncovered, which would be a gross failure of the safeguarding

regime.

Investigation of the risk

106. The Home Office Public Protection Unit and the DBS have worked together to review the risk and the steps that could be taken to reduce it. The police have been engaged with the Home Office on this issue since the case to which I have referred. No hard evidence has been uncovered that demonstrates that the assertions that name changing has enabled numbers of individuals to circumvent the DBS IDV process are correct. Further, the DBS is confident in that process. However, the reviews have not been able to conclude that the risk from name changing has been wholly eliminated.

Use of birth certificates to mitigate the risk

107. Some of the public contributors to this debate have suggested that mandating birth certificates as one of the documents that must be supplied in support of an applicant's identity would eliminate or significantly reduce the risk.

Conclusion on name change

108. I have to accept that the system by which an individual can change their name presents a degree of risk to the integrity of DBS certificates. I am satisfied that those with responsibility for managing the risk (Home Office, Police, HM Passport Office and DBS) are fully aware of the risk and working together to actively manage it. However, as I have said nobody has been able to conclude that the risk has been wholly eliminated. On the material available to me, I am unable to judge to what degree the mandating of birth certificates or other steps would mitigate the risk, so such recommendation as I can make is very limited.

Recommendation 8: Name change

109. I recommend that the Home Office and the DBS continue the work of assessing what, if any, further steps can be taken to mitigate the risk of individuals circumventing the DBS identification validation process including the consideration of mandating the provision of a birth certificate as one of the documents establishing identity.

8. The Update service

Position pre-Update service

110. Disclosure in a certificate issued by the DBS can only show the position as at the date the certificate is issued. Certificates are issued without limit of time and do not require renewal. Neither the DBS nor the employer who relied upon the certificate as part of their suitability decision will be aware of any changes to the status of a certificate holder as a result of a later conviction or the recording of information about them. This appears to me to be a vulnerability in the regime. The holder of a certificate who applies for a job with a different employer is required to apply for a new certificate even if there has been no change in their details and the role is in the same 'workforce'. This lack of portability was the reason for the changes brought about by the introduction of the Update service.

Introduction of the Update service

111. In June 2013, the DBS introduced an 'Update Service' for standard and enhanced certificates. The principal purpose of the service was to enable a certificate holder to take their certificate from job to job within the same workforce unless an employer asked for a new certificate, or they needed a certificate for a different type of workforce. The holder of a certificate can subscribe to this service for which an annual fee of £13 is charged. (There is no fee for volunteers.) Holders of more than one certificate can link them to a single subscription. The Update service carries out a weekly check of the subscriber's record of convictions held on the Police National Computer (PNC) and a check of information held by local police forces every nine months.

112. The subscriber to the service, an employer or potential employer with the subscriber's permission can check the status of the subscriber's certificate online. If a change has occurred, the status check will show:

“ ‘This certificate is no longer current. Please apply for a new DBS check to get the most up to date information.’”

Further, if a change occurs that results in a certificate being no longer current, the DBS writes to the subscriber informing them that new information has been identified and giving the general category namely: a new conviction etc recorded on the PNC, or their inclusion on a barred list or new information provided by a local police force. The letter advises them that they should consider whether there is a requirement under their terms of employment to

notify their employer or other body of the change. It warns them that it is an offence to seek to, or continue to, engage in regulated activity if barred. To establish the precise reason for the change, the subscriber needs to apply for a new certificate.

Portability

113. The facility that the Update service offers for employers to check the status of an individual's existing certificate has provided, for subscribers to the service, the solution to the limited portability in the original scheme. However, it is only a partial solution to the vulnerability to which I have referred because employers are not automatically informed of a change occurring in the status of a certificate.

Figures

114. Before continuing I will set out some figures that I believe assist when considering the Update service.

Subscribers 18 November 2022

Certificates	Subscribers	Status checks
Enhanced certificates	2,228,976	1,398,176
Standard certificates	34,263	15,548

It is not possible to establish whether the checks were carried out by the subscriber, and/or their employer, and/or another interested party.

Subscribers with Status Change

Period	Certificate	Status change	Status check following change	New applications following change
Y/E 31/10/21	Enhanced	3198	1102	75

Period	Certificate	Status change	Status check following change	New applications following change
Y/E 31/10/21	Standard	25	2	0
Y/E 31/10/22	Enhanced	3764	1131	53
Y/E 31/10/22	Standard	39	10	0

115. I am unable to say what proportion of certificate holders subscribe to the Update service. This is because certificates are issued without limit of time and so remain in the records even after the holder has left the relevant employment. However, one can see that very significant numbers of holders of enhanced certificates do subscribe. When one looks at the status changes, the numbers, although not large, are still significant. What is perhaps surprising is that notification of a status change to a subscriber only leads to around one third being checked to discover the nature of the change. It is not possible to establish: (a) who carried out the check; (b) whether the subscriber informed their employer of the change, in which case one would expect a new application or (c) whether the very small numbers of new applications result from the subscriber voluntarily leaving the employment or continuing in employment without informing their employer. If this last were the explanation, it raises the spectre of significant numbers of individuals continuing to work in roles for which their employer would regard them as unsuitable if they knew of the status change.

116. A few years ago, the DBS did some customer research around the Update service and there was a clear ask from employers that DBS provide 'push' notifications. I accept that this would require changes to DBS systems. I am not in a position to judge the feasibility or cost or of such changes. There would be many details to such changes, for example presently the DBS has no record of a subscriber's employer and there are time limits for applications to join the Update service.

Conclusion on the Update service

117. I believe that greater use of the Update service together with 'push' notifications to employers of a status change would mitigate a vulnerability in the regime arising from a change in the status of the certificate after it is issued. Making subscription to the Update service mandatory would require legislation

and, inevitably, delay. However, employers would be free to require applicants for employment to register for the service and to give them permission to check the status of the certificate and to receive notification of any change.

118. I accept that many occupations to which this would apply are not regarded as well paid, but I believe that the fee, amounting to 25p a week, is such that it does not provide a strong disincentive. The numbers of enhanced certificate holders who presently subscribe to the service confirm that belief.

Recommendation 9: The Update service

119. I recommend that the DBS carries out the work necessary to establish the feasibility and cost of redesigning the Update service to enable employers, who have been given permission to carry out status checks, to receive notification of any change to the status of the certificate.

Appendix A

Review into the Disclosure and Barring Regime: Terms of reference

Purpose

The purpose of the review is to provide assurance to Ministers about the effectiveness of the disclosure and barring regime in safeguarding children and vulnerable adults.

The review will consider the regime with a particular focus on (but not limited to):

- the definition of regulated activity, including issues raised by the Independent Inquiry into Child Sexual Abuse (IICSA), the International Development Committee and areas where there are identified inconsistencies in the definitions of regulated activity for adults and children, for example, hospital porters;
- eligibility gaps for disclosure checks for the self-employed, including private tutors and sports coaches;
- eligibility of local councillors for checks;

- the use and effectiveness of criminal record checks in the private security industry; and
- the use and effectiveness of criminal record checks for employment which involves access to the deceased.

The review will also consider the effectiveness of safeguards against sex offenders changing their names to hide their criminal past, including issues related to gender reassignment.

The review will:

- identify key issues of concern about the current regime;
- consider current responses to them;
- assess and advise on risks and opportunities; and
- make recommendations for improvement.

The review will:

- take account of the need to protect the public while supporting ex-offenders into employment;
- take account of public concern and issues raised in Parliament, the media and by IICSA;
- consult key stakeholders, including other Government Departments, the Disclosure and Barring Service, policing/National Police Chiefs' Council, the Independent Monitor for Disclosure and Barring and the Security Industry Authority;
- learn any lessons from how these issues are dealt with in the Devolved Administrations;
- consider the equality implications of any recommendations.

The review will present a report to Ministers within approximately six months. A summary of key findings and recommendations may be published as appropriate.

Appendix B

List of contributors to the disclosure and barring review

Stakeholder	Key Issue of concern
Access Northern Ireland	All
ACRO Criminal Records Office	Overseas criminal record checks
Ann Craft Trust	Self-employed
Barnardo's	Multiple
British Council	Multiple
British Gymnastics	Regulated activity definition
Chartered Institute for the Management of Sport and Physical Activity	Regulated activity definition
Department for Digital, Culture, Media and Sport	Regulated activity definition
Department for Education	Regulated activity definition
Department for Levelling Up, Housing and Communities	Local councillors
Department for Transport	Regulated activity definition
Department of Health and Social Care	Multiple
Devon County Council	Amount of information disclosed and Regulated Activity
Disclosure and Barring Service	All
Disclosure Scotland	All
England and Wales Cricket Board	Regulated activity definition
Football Association	Regulated activity definition
Foreign, Commonwealth and Development Office	Regulated activity definition
Fuller Inquiry	Employment with the deceased
Home Office	All
Hugh Davies KC	Overseas aid workers

Stakeholder	Key Issue of concern
Independent Inquiry into Child Sexual Abuse	All
Independent Monitor for the DBS	All
Keep Prisons Single Sex	Name change
Ministry of Justice	All
National Society for the Prevention of Cruelty to Children	Regulated activity definition
Rugby Football Union	Regulated activity definition
Safeguarding Alliance	Name change
Security Industry Authority	Licensed security
Sport England	Regulated activity definition
Unlock	Enabling employment for ex-offenders
Youth Justice Board for England and Wales	Young ex-offenders

1. [The Report of the Independent Inquiry into Child Sexual Abuse – HC 720](https://www.iicsa.org.uk/key-documents/31216/view/report-independent-inquiry-into-child-sexual-abuse-october-2022_0.pdf) (https://www.iicsa.org.uk/key-documents/31216/view/report-independent-inquiry-into-child-sexual-abuse-october-2022_0.pdf) (iicsa.org.uk) Paras 41–45, 48–50, 53

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DBS Policy Statement

Date: ~~November 2023~~ **September 2024**

Document summary

This policy statement provides guidance on the effective use of the DBS Disclosure process to safeguard the children and adults who access our services.

Enquiries

Recruitment Support, 01273 335733

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Related documents

This policy should be read in conjunction with related policies and guidance found on the Intranet/Webshop:

- [DBS Contract Managers Guidance](#) and [DBS Contract Clause](#)
- [DBS: Online Update Service and Single Certificate Guidance](#)
- [Storage of DBS Disclosures Policy](#)
- [Pre-employment Checks Policy](#)
- the [Employment of Ex-Offenders Policy](#)
- Individual schools' safer recruitment policies

Key points

- East Sussex County Council (ESCC) is committed to safeguarding the welfare of those accessing its services through the effective use of the DBS Disclosure vetting process for all relevant groups of employees.
- The guidance set out in this DBS Policy Statement relates to employees, casual workers, volunteers, and agency staff. For detailed guidance on contractors/sub contractors, please refer to [DBS Contract Managers Guidance](#) found on the Intranet/Webshop.
- Throughout this document where a “DBS Disclosure or check” is referred to, this covers all types of DBS check (i.e. standard/enhanced/enhanced + children’s and/or adults barred list check).
- Where the term ‘vulnerable adult’ is used, this is where an adult is in receipt of or accessing a service which leads that adult to being considered vulnerable at that particular time.
- ESCC uses the DBS Disclosure process as part of a range of checks for assessing the suitability of preferred candidates, volunteers, contractors, agency staff, those transferring within ESCC, and the continued employment of those in specific roles which require reassessment.
- ESCC obtains and makes decisions based on information provided on DBS Disclosures in accordance with the relevant data protection legislation, the DBS Code of Practice, the Rehabilitation of Offenders Act and the regulations of the Department for Education (DfE) and the Department of Health (as regulated by OFSTED and CQC)

1. DBS checks and when to use them

- 1.1. It is best practice to determine the type of DBS Disclosure that is required by way of a risk assessment which should be undertaken by the manager responsible for the activity that the individual will be undertaking. Managers should conduct the risk assessment before the activity commences and in the case of recruitment to a vacant post, this should take place prior to the recruitment process. Managers are also responsible for the ongoing reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or vulnerable adults has changed and, if necessary, to initiate a new DBS Disclosure.
- 1.2. There are five types of check that are available. The DBS Eligibility Checker will determine which level of check, if any is required ([Find out which DBS check is right for your employee - GOV.UK \(www.gov.uk\)](#)). The checks that ESCC process are:
 - **Standard DBS Check** - primarily for people entering certain professions such as: members of the legal and accountancy professions. Standard DBS checks just involve a check of the police national computer and do not include a check of police information or the children’s or adults barred lists.
 - **Enhanced DBS Check** - used where someone meets the pre September 2012 definition of regulated activity. This level of check involves a check of the police national computer and police information.
 - **Enhanced Check for Regulated Activity (Children)** - used when someone is undertaking regulated activity relating to children. This check involves a check of the police national computer, police information and the children’s barred list

- **Enhanced Check for Regulated Activity (Adults)** - used when someone is undertaking regulated activity relating to adults. This check involves a check of the police national computer, police information and the adults barred list.
 - **Enhanced Check for Regulated Activity (Children and Adults)** - used when someone is undertaking regulated activity relating to both children and adults. This check involves a check of the police national computer, police information and the children's and adults barred list.
- 1.3. If a standard or enhanced DBS check is not required it is possible to for a Basic Disclosure check. This type of DBS should only be requested where there is a clear reason to request the information, due to the nature of the work. The applicant has to request the DBS themselves. The cost of the DBS can either be reimbursed as an expense claim when they start employment, or the service can pay for the DBS directly if the applicant provides a contact person for payment request to be sent to.
 - 1.4. If there are concerns about an existing worker's suitability to continue working with children and/or adults then there is the discretion to undertake a DBS Disclosure. Due to the requirements of the DBS Disclosure process the individual concerned must give their consent for the DBS Disclosure to be obtained. HR Advisory Team must be contacted for advice in these instances.
 - 1.5. It is not possible to apply for a DBS check for someone who is under 16 years of age.

2. Validity of DBS Disclosures

- 2.1. There is no period of validity for a DBS Disclosure. A DBS Disclosure is technically out of date on the day it is issued as a new or further criminal conviction or caution may be recorded against the individual at any time after the issue date.
- 2.2. ESCC contracts of employment set out that if following an individual's appointment they are subsequently cautioned, charged, summonsed or convicted of a criminal offence then they should inform their line manager immediately. Failure to disclosure such information may lead to disciplinary action being taken.

3. Portability of DBS Disclosures

- 3.1. Portability refers to the re-use of a DBS Disclosure, obtained for a position in one organisation and later used for a position in a new organisation.
- 3.2. Applicants can join the **online update service** though this will incur an annual charge the individual would need to meet. Schools and services may wish to encourage individuals to join, where they have peripatetic roles and/or irregular working patterns, or work across several schools or services with the potential for more than three months' break in service. Membership for volunteers is free of charge.
- 3.3. If a certain set of criteria are met, a free and instant check can be undertaken online which will detail whether the individual's current certificate remains valid or if there is new information present which will mean that a new disclosure certificate will need to be sought. If the check remains valid then it will be accepted as a portable check.

- 3.4. Applicants can register to become a member of the online update service at <https://www.gov.uk/dbs-update-service>
- 3.5. In relation to Contractors or Agency Staff, the “employer” is responsible for obtaining the DBS check. This check can then be used within any organisation that the Agency or Contractor provides staff to work within.

4. DBS Disclosure requirements for those moving positions within ESCC

- 4.1. Where an individual has undertaken a DBS Disclosure for a position with ESCC and they move to a substantially different position within the organisation, the DBS Disclosure will be acceptable in the following instances:
- The type of DBS Disclosure (i.e. Standard / Enhanced / Enhanced + relevant barred list check) is the same for the old and new post;
 - The individual has not had a break in service of more than three months;
 - The new work does not represent a significant increase in responsibility for, and contact with, children and/or adults;
 - The individual is registered with the online update service and, following a check of the update service, the certificate has been verified as current and valid.

5. Frequency of DBS Disclosure checking - employees

- 5.1. Where a DBS Disclosure is required, the individual will complete a DBS check as part of a recruitment and selection process to ascertain their suitability for the post. In most instances there are no requirements to undertake periodic DBS Disclosures, commonly known as a DBS Disclosure refresh.
- 5.2. ESCC has taken a policy decision which means that those employees working in the following areas are required to undertake a new DBS Disclosure every 3 years:
- School Crossing Patrol
 - Cycle Trainers
- 5.3. Service managers are responsible for requesting refreshed DBS disclosures when required. HR can provide a report of when employees’ DBS disclosures were last issued. The service will be issued with access to the DBS checking system and they can apply for applications there directly.
- 5.4. Where an existing worker’s DBS Disclosure reveals a criminal background or any cause for concern (i.e. it is a Positive DBS Disclosure) a conversation should take place between the line manager and employee in regards to their suitability for the post. The line manager will, after having this conversation, be required to make a recommendation to their Assistant Director on the suitability of the individual to continue in post.

6. Starting work prior to receipt of DBS disclosure

- 6.1. In all circumstances every effort must be made to ensure a DBS Disclosure is obtained prior to the individual starting work. Only in exceptional circumstances can an individual start work without the full results of the DBS Disclosure being known. See [Pre-employment Checks Policy](#) for further details.

7. Receipt of DBS disclosure

- 7.1. The DBS issue one copy of a DBS Disclosure to the applicant, a copy is not sent to the employer. The applicant will need to present the certificate to their line manager as soon as possible after they receive it. For employees (but not volunteers) Recruitment Support will still need to record the DBS Disclosure reference number, type of Disclosure (e.g. Standard or Enhanced) and the issue date. This information should therefore be passed to Recruitment Support in the appropriate manner.
- 7.2. If a positive DBS Disclosure (i.e. a Disclosure that reveals a criminal background or details that may be of concern) is received the manager needs to follow the necessary guidance found in the 'Online Update Service and Single Certificate Guidance', Assistant Directors/ Headteachers (or Chair of Governors in the cases of a DBS Disclosure for a Headteacher) must consider and approve the suitability of the candidate to commence/continue their employment.
- 7.3. In these instances a risk assessment is required to determine whether the risk of employing or continuing to employ an individual can be taken and what safeguards would need to be introduced to manage that risk.
- 7.4. In accordance with the Rehabilitation of Offenders Act, a criminal conviction may not automatically prevent an individual from working with ESCC.
- 7.5. Managers must consider the following factors:
 - The requirements of the role and the level of supervision the individual will receive;
 - The seriousness of the offence/issue raised and its relevance to the safety of employees, service users, clients or property;
 - How relevant the offence is on the role to be undertaken;
 - How much time has elapsed since the offence was committed and whether it was a one-off incident or part of a history of offending;
 - Whether the individual's circumstances have changed since the offence was committed making re-offending less likely;
 - Whether the individual was open and transparent about their past and declared their criminal background prior to receiving the DBS Disclosure.

8. Recruiting from overseas

- 8.1. DBS Disclosures do not record convictions that were committed abroad. When recruiting candidates who have lived or worked abroad within the last five years, a DBS Disclosure must be obtained in the normal way and the equivalent disclosure from the country(s) concerned may be required as well. In the first instance the applicant should apply for any overseas disclosure, however the recruiting manager must reimburse the cost of this once the candidate has commenced in post. For more information on recruiting from overseas, please see the [Pre-Employment Checks Policy](#) available on the Intranet/Webshop.

9. DBS Disclosures for agency workers, contractors, subcontractors or volunteers

- 9.1. Agency workers, contractors, sub-contractors and volunteers must be assessed against the same criteria as those working directly for ESCC to see if a DBS Disclosure is required (please refer to The DBS Eligibility Checker, [Find out which DBS check is right for your employee - GOV.UK \(www.gov.uk\)](#)).
- 9.2. Specific guidance relating to DBS checks for agency workers and contractors / sub-contractors can be found on the intranet and Webshop.
- 9.3. A standard clause relating to DBS Disclosure requirements has been developed and should be introduced into any contract which involves work with children or adults or providing services for, or in, establishments where children and/or vulnerable adults may be present. See [DBS Contact Clause](#).
- 9.4. It is the responsibility of the relevant department to put appropriate measures in place to validate and ensure contract compliance.
- 9.5. Staff employed via an agency must have their DBS renewed on an annual basis.
- 9.6. Contractors must ensure that their employees and sub contractors' DBS checks are refreshed every 3 years.

10. DBS Disclosures for Councillors

10.1. The County Council has determined that Councillors fulfilling the following roles should be required to undertake an Enhanced Check:

- Members of the Fostering Panel;
- Members of the Corporate Parenting Panel;
- **Named substitutes of the Corporate Parenting Panel;**
- Lead Member for Children and Families;
- Lead Member for Education and Inclusion, Special Educational Needs and Disability;
- Lead Member for Adult Social Care and Health;
- **Members of the Discretionary Transport Assistance Panel.**

10.2. **All County Councillors elected in the County Council May 2025 elections will be subject to a basic DBS check.**

10.2. **10.3** Similarly to arrangements for employees in the services identified in [Section 5](#), DBS Disclosures for Councillors fulfilling these roles will be monitored by Business Administration and refreshed every 4 years.

- 10.3. **10.4** Disclosures are sent to the individual. The Councillor will need to present their certificate to the Monitoring Officer. The unique reference number and date of issue of a Councillor's disclosure will be recorded as evidence of the check having been undertaken but this will not indicate whether the check has resulted in a positive disclosure.
- 10.4. **10.5** Where a DBS check results in a positive disclosure (i.e. a criminal background or details that may be of concern) the Councillor would be requested to meet with the Chief Executive and Monitoring Officer to discuss the disclosure and its impact on their suitability to undertake certain roles. If the outcome of those discussions is that there should be a restriction in their role, then this would be additionally shared with the Member's group leader where relevant.

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Report to: Governance Committee
Date of meeting: 26 September 2024
By: Chief Executive
Title: Amendment to the Constitution
Purpose: To consider amendments to the Constitution.

RECOMMENDATION

The Governance Committee is recommended to recommend the County Council to:

(1) agree to amend the Constitution as set out in the report and appendices.

1. Supporting Information

1.1. As part of an ongoing internal review of East Sussex County Council's Constitution it is necessary to update references to legislation in the Constitution where the legislation has been amended or repealed.

1.2. The proposed changes to the Constitution are set out in red in Appendix 1.

2. Terms of Reference of the Health and Wellbeing Board

2.1. During 2024 a number of changes have been implemented in the governance arrangements of the East Sussex Health and Care Partnership. These changes were reported to the East Sussex Health and Wellbeing Board (HWB) at the meeting held on 16 July 2024.

2.2. One of the main changes was the merging of the Health and Social Care Executive Delivery Group with the Health and Care Partnership Board to form a single body called the East Sussex Health and Care Partnership Executive Board. Consequently, a minor amendment to paragraph 5 of the HWB terms of reference is needed to reflect this change in governance arrangements.

2.3. The proposed amendment is shown in red on a copy of the HWB terms of reference in Appendix 2.

3. Code of Practice for Good Governance for Local Authority Statutory Officers

3.1. SOLACE, CIPFA and Lawyers in Local Government have published a Code of Practice for Good Governance for Local Authority Statutory Officers. The Code provides advice and sets expectations for local government's statutory roles.

3.2. The Code sets out that the Head of Paid Service (the Chief Executive) or the authority should make arrangements for the deputisation of their role. The Code states that, in nominating a deputy, the statutory officer should ensure that those individuals will have sufficient skill, expertise and knowledge to perform their roles. The Chief Executive has nominated the Assistant Chief Executive as her Deputy and the Committee is therefore

recommended to recommend the Council to amend the Constitution to change references to the 'Assistant Chief Executive' to the 'Deputy Chief Executive'. There is no cost to this.

4. Conclusion and Reason for Recommendation

4.1. It is considered that the proposed amendments to the Constitution are necessary to ensure that the Council's Constitution reflects the changes to legislation, the Terms of Reference of the Health and Wellbeing Board and the arrangements in place regarding the Deputy Chief Executive.

4.2. The amendment to the Terms of Reference of the Health and Wellbeing Board is considered necessary in order to reflect the changes implemented by the East Sussex Health and Care Partnership, namely the newly formed East Sussex Health and Care Partnership Executive Board.

4.3. Therefore, the Governance Committee is recommended to recommend the County Council to agree to the amendments set out in the report and appendices.

BECKY SHAW
Chief Executive

Email: becky.shaw@eastsussex.gov.uk
Tel: 01273 481950

Local Members: All

be

Background Documents: None

Summary of Amendments to Legislation within the Constitution

Reference	Proposed Amendment
Part 3 Art 6.04 HOSC_(7)	Section 21(f) of the Local Government Act 2000 (as amended by Section 7 and regulations under that section, of the Health and Social Care Act 2001)
Part 3, Table 4, Para E (i)	the <u>Marriages and Civil Partnerships (Approved Premises) Regulations 1992</u> 2005
Part 3, Table 5, Section 8 (Pension Board), (new) para 26	the <u>Data Protection Act 2018, the UK</u> General Data Protection Regulation
Part 3, Table 5, Section 11 (Fostering Panel)	the Fostering Services <u>(England)</u> Regulations 201 <u>1</u> 02
Part 3, Table 6, Para 3, A, 10	10. To make a Direction (and review that Direction every seven days) in accordance with the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 and/or any updating legislation.
Part 3, Table 6, Section 3, C, para 28	28. To respond to the appropriate government department on applications made under the Environmental Impact Assessment and Habitats (Extraction of Minerals by Marine Dredging) Regulations 2001 <u>any consultation undertaken by the Marine Management Organisation (MMO), including in respect of Marine Plans or any Marine Licence</u> unless the proposal raises issues of strategic importance.
Part 3, Table 6, Section 3, C, para 56	<ul style="list-style-type: none"> • Agricultural Produce (Grading & Marking) Acts 1928 • <u>Animal Health Act 1981</u> • Celluloid & Cinematograph Film Act 1922 • Farm & Garden Chemicals Act 1967 • Fireworks Act 1951 • Intoxicating Substances (Supply) Act 1985 • Property Misdescriptions Act 1991 • <u>Psychoactive Substances Act 2016</u> • Solicitors Act 1974 • <u>Unsolicited Goods & Services Acts 1971 & 1975(as amended)</u>
Part 3, Table 6, Section 3, C, para 57	the Petroleum <u>(Consolidation) Act-Regulations 2014</u> 1928
Part 3, Table 6, Section 3, C, para 63	To update the Preliminary Flood Risk Assessment for East Sussex in accordance with the requirements of the Flood Risk Regulations 2009.
Part 3, Table 6, Section 3, C, para 72	the <u>Marriages and Civil Partnerships (Approved Premises) Regulations 2005</u> 1995 .
Part 3, Table 6, Section 3, D, para 21	the <u>School Governance (Constitution) (England) Regulations 2012</u> or the <u>School Governance (Federations) (England) Regulations 2012</u>

Part 3, Table 6, Section 3, D, para 28(b)	the Adoption and Children Act 1976 <u>2002</u>
Part 3, Table 6, Section 3, D, para 39	To appoint the members of the Adoption panels in accordance with the Adoption Agencies Regulations <u>2005 (as amended by the Adoption Agencies and Independent Review of Determinations (Amendment) Regulations 2011)</u> .
Part 3, Table 6, Section 3, F, para 18	To make a Direction (and review that Direction every seven days) in accordance with the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 and/or any updating legislation.
Part 3, Table 6, Section 3, F, para 8	The Charities Acts 1993 and 2006
Part 3, Table 6, Section 3, H, para 8	Healthy Start and Welfare Food <u>Amendment</u> Regulations 2005 (as amended) .
Part 3, Table 6, Section 3, H, para 11	To make a Direction (and review that Direction every seven days) in accordance with the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 and/or any updating legislation.
Part 4, Section 1 (Council), Part 1, Standing Order 33	the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014) .
Part 4, Section 2 (Access to Information), Rule 10.4, category 4	paragraphs (a) to (g) of section 218 (1) of the Trade Unions and Labour Relations <u>(Consolidation)</u> Act 1992
Part 4, Section 2 (Access to Information), Rule 10.7	In addition to the categories of exempt information set out in paragraph 10.4 above, the Standards Committee of the Council shall also have the benefit of the provisions contained in the Relevant Authorities (Standards Committee) Regulations 2001 as amended.
Part 4, Section 7 (Financial Procedure Rules), Rule A.1.9	the Accounts and Audit Regulations (2015 or subsequent) <u>S23 ss.32, 43 and 46 of the Local Government Finance Act 1988</u> <u>Audit and Accountability Act 2014</u> .
Part 4, Section 7 (Financial Procedure Rules), Rule A.5.1.2	<u>the Data Protection Act 2018</u> and the <u>UK</u> General Data Protection Regulation.

Proposed amendments to the Terms of Reference of the East Sussex Health and Wellbeing Board (HWB)

The East Sussex Health and Wellbeing Board (the Board) includes representation from all bodies in East Sussex with major responsibilities for commissioning and providing health services, public health and social care.

Membership

- 4 Members* of the County Council chosen by the Leader of the Council
- 2 Members* representing the five District and Borough Councils
- East Sussex County Council Director of Public Health
- East Sussex County Council Director of Adult Social Care and Health
- East Sussex County Council Director of Children's Services
- Chief Executive of East Sussex Healthcare NHS Trust**
- Three representatives of the NHS Integrated Care Board***
- One representative of Healthwatch East Sussex****

Footnotes;

* To avoid conflict of interest Members must be different from the Health and Overview Scrutiny Committee Member.

** The Chief Executive of East Sussex Healthcare NHS Trust represents all NHS provider trusts operating in East Sussex.

*** The NHS representatives also provide representation on behalf of NHS England – South East.

**** To avoid conflict of interest Healthwatch East Sussex will not be members of the Health and Overview Scrutiny Committee Member or any Council Scrutiny Committee.

The Board will be chaired by an elected Member of East Sussex County Council.

A Deputy Chair will be chosen from among the NHS Sussex representatives.

The quorum for a Board meeting shall be half of the membership including at least one elected Member of the County Council and one representative of NHS Sussex.

In the event of equal votes the Chair will have the casting vote. All members of the Board will be entitled to vote.

Observers

In addition to the members listed above, additional non-voting observers from relevant agencies will be invited attend to assist in achieving the Board's objectives. The invited observers with speaking rights are:

- One member* from each of the 3 borough and district councils within East Sussex that are not voting representatives
- Chief Executive of East Sussex County Council

- One representative of the East Sussex Voluntary, Community and Social Enterprise Sector
- Sussex Police and Crime Commissioner
- Chief Fire Officer East Sussex Fire and Rescue Service

Role and Function

- To provide whole system leadership for the health and wellbeing of the people of East Sussex and the development of sustainable and integrated health and care services.
- To provide strategic influence over the commissioning and provision of health, public health and social care services in East Sussex.
- To strengthen democratic legitimacy by involving democratically elected representatives and patient representatives in commissioning and provision decisions across health and social care and provide a forum for challenge, discussion, and the involvement of local people.
- To bring together the NHS, the County Council and others to develop a shared understanding of the health and wellbeing needs of the community using robust and up to date evidence.
- To drive local commissioning and delivery of health care, social care and public health and create a more effective and responsive local health and care system that reduces the need for health and social care in the longer term and/or prevents the need for a more expensive service.
- To jointly undertake responsibilities for addressing population health need and to work together to inform strategic planning of health and social care, through oversight of integrated investment plans including the Better Care Fund and Improved Better Care Fund.
- To undertake any other responsibilities delegated to the Board.

These functions will be delivered through the following activities:

Identify needs and priorities

1. Publish and refresh the East Sussex Joint Strategic Needs and Assets Assessment (JSNAA), using a variety of tools, evidence and data including user experience, to ensure that the JSNAA supports commissioning and policy decisions and identification of priorities.

Deliver and review the Joint Local Health and Wellbeing Strategy

2. Review and update the Joint Local Health and Wellbeing Strategy regularly to ensure the identified priorities reflect the needs of East Sussex and that it clearly explains our joint purpose to residents, communities, staff and volunteers in all organisations
3. Ensure the County Council, NHS Sussex and NHS providers have regard to and contribute to the delivery of the Joint Local Health and Wellbeing Strategy and integrate its agreed objectives into their respective plans.

4. Ensure the Sussex Health and Care Assembly (the Integrated Care Partnership) builds on and aligns with the priorities and goals of the Joint Local Health and Wellbeing Strategy and JSNAA, including the development of the Integrated Care Strategy for Sussex.

5. Review recommendations from the ~~East Sussex Health and Social Care Executive Group~~ **East Sussex Health and Care Partnership Executive Board, or equivalent body**, with regard to transforming services and the overall strategic investment patterns to meet population health needs and deliver outcomes, reflecting national policy where this is appropriate.

6. Oversee and hold partners to account for the implementation of agreed plans.

Ensure achievement of outcomes

7. Communicate and engage with local people about how they can achieve the best possible quality of life and be supported to exercise choice and control over their personal health and wellbeing.

8. Have oversight of the use of relevant public sector resources across a wide spectrum of services and interventions, with greater focus and integration across the outcomes spanning healthcare, social care and public health.

9. Work in partnership with the Sussex Health and Care Assembly to:

- Support and promote greater integration and collaboration across health and social care;
- Support co-ordination of the strategic direction and collaboration across health and social care; and
- Improve outcomes for East Sussex residents

10. Have a relationship with the East Sussex Strategic Partnership to strengthen the engagement of a wider range of stakeholders in all determinants of health.

Reporting

11. Propose recommendations regarding the work of the Health and Wellbeing Board to:

- East Sussex County Council;
- NHS Sussex; and
- NHS provider Trusts

12. Direct issues to and receive reports from the appropriate Scrutiny Committees of the County Council, and the East Sussex Strategic Partnership.

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Report to: Governance Committee

Date of meeting: 26 September 2024

By: Director of Communities, Economy and Transport

Title: Customer Experience Annual Report

Purpose: To provide an update on measures being taken to further improve customer experience by the Customer Experience Board and information about the Council's performance in 2023/24 in handling complaints, compliments, and formal requests for information, including the Local Government & Social Care Ombudsman's annual letter.

RECOMMENDATIONS

The Governance Committee is recommended to:

- (1) note the progress of the Customer Experience Board in the implementation of a series of measures to improve customer experience;
 - (2) support the Customer Experience Board's focus in 2024/25 in utilising the Customer Contact Dashboard to improve service delivery and to aim to provide savings and manage demand by channel shift;
 - (3) support the Customer Experience Board's focus to adopt the Local Government & Social Care Ombudsman's new Complaint Handling Code;
 - (4) note the number and nature of complaints made to the Council in 2023/24; and
 - (5) note the contents of the Local Government & Social Care Ombudsman's annual letter to the Chief Executive.
-

1 Background

1.1 The Customer Experience Board (the Board) leads on the development and implementation of a series of measures to improve Customer Experience across the Council. The Board has the following priorities:

- To ensure the content of ESCC website is the best that it can be with close links to exploring customer journeys and end to end processes;
- To develop the capturing of data on our customer contact in order to inform service delivery and improvements;
- Continue to review customer feedback from customer contact channels to drive our commitment to improving customer experience and satisfaction; and
- Explore customer journeys by mapping end to end customer contact with us.

1.2 The Board's aim is to identify issues and deliver improvements that result in a better and more consistent customer experience across the authority, considering our corporate priorities, particularly making best use of our resources, and a One Council approach.

1.3 In support of the Board's priorities, the primary focus in 2023/24 has been the development of a Customer Contact Dashboard, which is explained further in this report. This report also provides a summary of our customer feedback surveys, Council complaints, Ombudsman complaints, compliments, and formal information requests.

2 Customer Experience achievements and developments in 2023/24

Improvements to customer experience - understanding Council-wide customer contact

2.1 As reported to Governance Committee last year, ESCC lacked a single view of customer contact volumes and the Board committed to presenting a Customer Contact Dashboard in this annual report 2023/24. This has now been developed and includes data for the three main customers contact channels across the Council:

1. external received calls,
2. external emails received to ESCC public facing group inboxes, and
3. data on webforms used on ESCC corporate website.

2.2 The development of the dashboard has been a significant milestone as it provides information about contact points and volumes in a centralised view of customer contact across the Council. It creates a baseline of data and is crucially important as the data can be used as evidence to support services with managing demand and in developing plans for channel shift to achieve potential cost savings, but equally, improving service delivery and customer journeys.

2.3 From August 2023 to March 2024 (eight months), customers contacted the Council by telephone calls, emails and webforms a total of approx. 566,000 times. The following is a breakdown by contact channel and department. Council building receptions are listed separately, highlighting the significance of this contact method used by customers. Please note that these figures do not represent all contact channels within the Council. This is explained further in Appendix 1.

2.3.1 Telephone calls (the figures below do not include personal or mobile numbers)

- Approx. total of 301,200 received phone calls from August 2023 to March 2024
- An average of approx. 37,650 per month
- Community, Economy & Transport at 38% (approx. 120,000)
- Adult Social Care & Health at 26% (approx. 70,000)
- Children's Services at 16% (approx. 49,500)
- Business Services at 7% (approx. 21,500)
- Governance Services at <1% (approx. 150)
- Receptions at 13% (approx. 41,000)

2.3.2 Email received to ESCC (only: @eastsussex.gov.uk) public facing group inboxes (the figures below do not include emails to individual staff):

- Approx. total of 234,000 emails were received from August 2023 to March 2024
- An average of approx. 29,250 per month
- Community, Economy & Transport at 43% (approx. 93,000)
- Adult Social Care & Health at 16% (approx. 40,000)
- Children's Services at 27% (approx. 67,000)
- Business Services at 12% (approx. 30,000)
- Governance Services at <1% (approx. 500)
- Receptions at 1% (approx. 3,000)

2.3.3 Online webforms used on ESCC corporate website (the figures below do not include any webforms from other systems or microsites except for eastsussexhighways.com):

- Approx. total of 30,800 online forms were received from August 2023 to March 2024
- An average of approx. 3,850 online forms per month
- Community, Economy & Transport at 94% (approx. 29,000) (includes Highways webforms)
- Adult Social Care & Health at 1% (approx. 300)
- Children's Services at 5% (approx. 1,500)
- Business Services at <1% (approx. 100)
- Governance Services at <1% (approx. 50)

2.4 Although the dashboard only shows eight months of the year, it has already started to reveal the fluctuations in demand that we experience across the Council in peak times of customer contact, such as submission deadlines or seasonal impacts. Further details of the customer contact dashboard are presented in Appendix 1. The appendix provides details about the parameters of the customer contact points, engagement with services across the council, a brief analysis of customer contact data, and an illustration of the dashboard.

Channel shifting - delivering service improvements and efficiencies

2.5 The customer contact dashboard has the potential to improve customer journeys as well as contribute to cost savings for the Council through identifying opportunities for channel shifting. The dashboard provides an invest to save development through using data to pinpoint high volume areas of contact and where online options for contact can be expanded and improved, therefore reducing contact with staff and allowing customers to self-serve at a time most convenient to them.

2.6 There will always be a need for telephone contact and for some services this is the most effective way for customers or clients to contact us. The development of the dashboard is not about removing telephone contact from those customers who need it; however, our customers have an expectation that online self-service or automated help will be available to them. The dashboard development allows ESCC to continue to move customers towards self-service where possible and assist further with providing opportunities for our customers to access our services 24 hours 7 days a week, whilst at the same time providing opportunities to reduce costs.

2.7 The figures set out in the table below are the most quoted for channel shift savings in the UK and have been used in many Local and Central Government papers and Channel Strategies.

Source	Face to Face	Telephone	Post	Interactive Voice Response	Online
PWC Report	£10.53	£3.39	£12.10	N/A	£0.08
SOCITM	£14.00	£5.00	N/A	£0.20	£0.17

2.8 Since these were published in 2017, more recent research by ContactBabel (contact centre analyst company) in November 2023 has also found that the cost per inbound call has risen 57% since 2017 and that webchat costs stand at over half the cost of a phone call.

2.9 Using the dashboard to analyse our existing customer contact and identify more costly high-volume areas, provides the opportunity to see how contact could be handled more effectively and efficiently for our customers. It can benefit our customers by creating efficient, effective and task-focused journeys for them. However, equally it will enable the Council to deliver services in the most cost-effective way and reduce pressures on Council budgets.

2.10 For example, access to up-to-date and relevant web content (especially outside of opening times) and other online self-service options, such as online applications and payment options are essential to support the needs of our customers. Instead of an email address, where these online options are provided, more details are gathered upfront for an enquiry or transaction. This serves the customer better and allows staff immediate access to action or resolve an enquiry at the first point of contact. This would prevent a number of repeated contacts to the customer to gather relevant information which can cause frustration. It can speed up the handling of their enquiry whilst being cost efficient. This potentially has a significant benefit of staff being able to focus on more complex enquiries and reducing waiting or handling times.

2.11 In conclusion, following the development of the Customer Contact Dashboard, the Board will require a year to analyse and utilise the data to its full potential as described in this section. For the remainder of 2024/25 and until July 2025, the Board will prioritise on using the dashboard to improve service delivery and to aim to support potential savings and manage demand through channel shift.

The Board will focus on an area in Communities, Economy and Transport (CET), Children's Services (CS), and Adult Social Care and Health (ASCH) to deliver efficiencies from channel shift, and results will be reported in the 2024/25 annual report. Examples of areas being investigated are:

- One of the key issues for CS is the high number of access/contact points. Currently those that need CS can contact the Council in a number of different ways and through a number of different access points. The dashboard will be used to investigate the volumes across the multiple access points in CS and seek to evaluate the points, to see if they could be rationalised and where possible, consider managing demand by shifting contact online and providing information upfront as much as possible to reduce contact to multiple front doors. The overall aim would be to make it simpler for those needing to access Children Services ensuring that they get to the right place/service as quickly as possible.
- Channel shift is a key area for people who use ASCH and for the department. With our demography and the fluctuating needs of people, computer literacy and access to the council website may prove to be a barrier for some or many. ASCH are about to launch an information and advice project, which will be key in considering access to information and channel shift. The aim of this project is to deliver on the Information and Advice elements of our new Adult Social Care strategy, including a detailed review of our information and advice offer against our Care Act duties so we can develop and improve the department's approach.
- In CET, the dashboard data has been used to start an evaluation of where there are high volumes of customer contact, which includes in the Registration Service. Currently the Registration Service receives a high volume of telephone calls. The service is currently using the dashboard to assist in understanding the nature of the enquiries, with the aim of identifying where contact can be reduced by improving online services and handling enquiries more efficiently upfront.

Customer feedback results and the rollout programme

2.12 In 2023/24 we received over 35,000 ratings from our feedback surveys and over 8,500 verbatim comments from customers, an increase of 35% and 219% respectively from the previous year of 2022/23. Each year there is a significant increase of use of the feedback surveys. This year there has been a significant increase in comments received, which is hugely valuable in helping Council staff understand how to improve customer journeys, information we provide, and overall customer experience.

2.13 The overall customer satisfaction rating across all channels in 2023/24 was 73%, the previous year in 2022/23 was 78%, a decrease of 5%. There has been a slight decrease across all channels of feedback. As we widen and increase the offer of feedback surveys to customers, the satisfaction ratings vary between the contact channels, due their range of purposes. A breakdown of statistics and key analysis on the results for each contact channel is presented in Appendix 2.

2.14 The Board continued its programme in 2023/24 of increasing and widening the channels where feedback is gathered. The programme included increasing surveys in already established customer feedback channels and to explore rollout on further areas. Feedback surveys were increased in further team emails, webpages, face to face visits at Council buildings, and interactive forms. Feedback surveys were added to two new channels, microsites (websites outside the corporate website: eastsussex.gov.uk) and newsletters, which have both proven successful. Details of the programme is presented in Appendix 2.

2.15 A further development underway is piloting feedback 'drivers' for two services. Where a customer chose a rating (excellent, good, ok, or poor) and doesn't leave a comment, staff have voiced frustration where there is a poor rating, but no comment is left to explain why. 'Drivers' are prepopulated, quick options that customers can click, such as "relevance of information", instead (or as well as) writing a comment. Initial responses are showing meaningful results, and the use of drivers will to be refined and further developed.

3 Complaints and compliments

3.1 The Council received 827 complaints in 2023/24 which represents an increase of 5% this year, compared to 785 complaints in 2022/23. Of the 827 complaints, 50% were fully or partly upheld (412), compared to last year at 49% (387) of all complaints. We continue to analyse the reasons for complaints which provides us with valuable feedback on how we can provide services that meet customers' needs and manage their expectations. How we handle complaints is a crucial element of customer experience, and the Council seeks continuous improvement to ensure we resolve individual customer's problems as effectively as possible, but also to identify where service-wide improvements can be made to create a better experience. A review of complaints by department is available in Appendix 3.

3.2 In 2023/24 we recorded 3,034 compliments received, compared to in 2022/23 we received 2,564 compliments. Compliments, where recorded, are feedback from individual customers. Ensuring that we provide channels for both positive and negative feedback which are easy for customers to access, helps services to reflect on what is or is not working. Details for compliments by department are available in Appendix 3.

4 Local Government & Social Care Ombudsman letter

4.1 The Local Government & Social Care Ombudsman (LGSCO) sends a letter annually to each local authority summarising the number of complaints received and decisions made during that period. It informs the Council how many complaints were investigated, either upheld or not upheld, closed after initial enquiries, or referred back to the Council for local resolution (as they were brought too early to the Ombudsman).

4.2 In 2023/24, the LGSCO made decisions on 86 complaints, which is similar to previous years (in 2022/23 there were 84). Of the 86 complaints, 32 were investigated and of these 28 (88%) were upheld. The average of similar authorities is 85%, which the LGSCO calculates and makes available on its website. It should be noted that the 'upheld' rate for LGSCO cases is generally high, as they only investigate cases where there is a likelihood of fault to be found and where the LGSCO think it is likely they will make recommendations over and above any remedies that have been offered through our own local complaints process. A breakdown of LGSCO complaints by department is provided in Appendix 3, and the LGSCO letter for 2023/24 is presented as Appendix 5.

4.3 The LGSCO annual letter notes again this year about late responses from ESCC to the LGSCO. In 2023/24 over half of the Council's responses were received after the set deadline. It is recognised by the Council that these delays were caused by how resource intensive and complex the cases are, and the continued competing challenges that services are facing. The Council will continue to endeavour to fulfil the request of the LGSCO for our Council to take the necessary steps to reduce delays going forward.

5 Local Government & Social Care Ombudsman Complaint Handling Code

5.1 The LGSCO launched a new [Complaint Handling Code](#) (the Code) in February 2024 in order to provide a single standard for complaint handling by local councils in areas not already covered by statutory complaint processes.

5.2 It is expected by the LGSCO that councils will have a single policy for dealing with complaints covered by the Code and to adopt the Code as soon as practically possible. The LGSCO plans to apply the Code to its processes from 1 April 2026.

5.3 The planning of the adoption and embedding of the new Code will be a key focus for the Customer Experience Board for 2024/25 and 2025/26. The Board will develop a single policy and the processes and procedures required for supporting the policy and adoption of the Code by 1 April 2026. The development of the policy and procedures will be presented to Governance Committee for approval as a Council policy in September 2025.

6 Formal requests for information

6.1 There were 2,107 formal information requests received in 2023/24, compared to 1,670 in 2022/23, which is a 26% increase. These requests relate to the Environmental Information Regulations (EIR), Freedom of Information (FOI) Act, and Data Protection Act. Requests include where information was provided in full or in part, where no information was provided or held, and requests not validated or withdrawn. Formal information requests have their own complaint procedure and information about complaints received is provided in Appendix 4.

6.2 Of the FOI and EIR requests which were completed (1,314) in 2023/24, the Council achieved 86% compliance in meeting the statutory deadline of responding within 20 working days. There were also 2,637 "Con29s" (a specific type of request under EIR) completed in 2023/24 and achieving 100% compliance with the statutory 20 working days deadline.

7 Conclusion and Recommendations

7.1 This report provides an overview and progress update on measures taken to further improve customer experience and summarises the annual results for complaints, compliments, the LGSCO letter, and formal information requests received in 2023/24.

7.2 Governance Committee is recommended to:

- (1) note the progress of the Customer Experience Board in the implementation of a series of measures to improve customer experience;
- (2) support the Customer Experience Board's focus in 2024/25 in utilising the Customer Contact Dashboard to improve service delivery and to aim to provide savings and manage demand by channel shift;
- (3) support the Customer Experience Board's focus to adopt the Local Government & Social Care Ombudsman's new Complaint Handling Code;
- (4) note the number and nature of complaints made to the Council in 2023/24; and
- (5) note the contents of the Local Government & Social Care Ombudsman's annual letter to the Chief Executive.

RUPERT CLUBB

Director of Communities, Economy and Transport

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BACKGROUND DOCUMENTS

None

Governance Committee

26 September 2024

Appendix 1 Customer Contact Dashboard Project

1.0 Dashboard: customer contact definitions and parameters

1.1 The dashboard is a new resource which provides a single source of truth for key customer contact channels, which is not available elsewhere. It provides an easy-to-use visual presentation of volumes and high and low trends across the council, departments, and services. It is intended to be a centralised and trusted dashboard that consolidates the data into a single source, which eliminates the duplication of effort and the risk of inaccuracies from multiple reporting and copying.

1.2 The project has focused on public facing access points for telephone calls, group email addresses, and webforms in the corporate ESCC website. The following describes more fully what is and is not included in the current dashboard development:

- All public facing telephone numbers are included.
- All public facing group email inboxes with ESCC domain (@eastsussex.gov.uk) are included.
- Webforms only from the corporate ([eastsussex.gov.uk](https://www.eastsussex.gov.uk)) website are included. To clarify, webforms from other microsites are not included, with the exception of webforms from [eastsussexhighways.com](https://www.eastsussexhighways.com) due to the high volume of this ESCC microsite and data readily available.
- Webforms that are embedded into the corporate website that feed into other systems (e.g. case managements systems, mapping systems) are not included.
- In person visitors (e.g. The Keep, Libraries, Receptions) are not included.
- Contact via social media is not included.

1.3 Data on telephone calls and webforms started to be gathered from November 2022; however, email contact data was available from August 2023. It was agreed by the Board to present data in this report from August 2023 to March 2024 in order to show complete datasets for all three channels.

2.0 Engagement with services and brief analysis of customer contact data

2.1 In order to verify the data being presented in the dashboard, each team manager of the services represented in the dashboard were consulted in order to: 1) confirm contact points are public facing, and 2) verify their data either by sense checking or against any local manual reporting.

2.2 Feedback from team managers in general has been very positive, with many asking when they will be able to access the dashboard and data. Many commented they do not have access to this type of data, and it would be helpful. And for some services, the initial discussions have already highlighted changes that need to be made by exposing contact points to be investigated, clarified and improved.

2.3 As the data shows (in the image below), ESCC has a high volume of telephone calls and emails in contrast to webforms. It is important to note that the volume of contact can vary greatly across the departments and services due to the different nature of the enquiries and service delivery, such as the complexity of a query versus the proliferation of a topic or service. It may not be possible to compare departments and services like for like.

2.4 It has been acknowledged by the Board that there is an expectation that if there are any proposed service changes as a result from the information provided in the dashboard, that an Equalities Impact Assessment would be undertaken and signed off appropriately within departments.

3.0 Snapshots of Customer Contact Dashboard

3.1 The dashboard image on the following page is to provide an example of the look and feel of the dashboard.

3.2 The dashboard has been developed in Tableau (visual analytics platform). Within the dashboard there are navigation notes. The Board is currently seeking to gain access to the dashboard for the relevant managers which will reduce duplication and the risk of inaccuracies from reproducing the same information in Excel or PowerPoint for example. This will create a single source of truth for the data provided.

3.3 Information about the project is provided for ESCC staff on the Digital Hub [Customer Contact Dashboard](#) and about using and navigating the dashboard.

East Sussex County Council - Customer Contact Dashboard

August 2023
to
March 2024

All Contacts (Selected) over time



Reset

Percentage of all contacts

ASCH

Adult Social Care and Health



20.45%

BSD

Business Services



8.76%

CET

Communities, Economy and Transport



43.20%

CSD

Children's Services



19.98%

GS

Governance Services



0.12%

REC

Reception



7.48%

Comparison Trend with Previous Month

All Contact Pie Chart

Total Contacts
566.0K



Parameter 1
1

Historical Contact Volumes by Month



Type of Contact

- EMAIL
- TELEPHONE
- WEB FORM

Month (of Year)

Multiple values

Public Facing

Yes

Type of Contact Filter

All

Contact Centre (Telephone 0345/0300)

All

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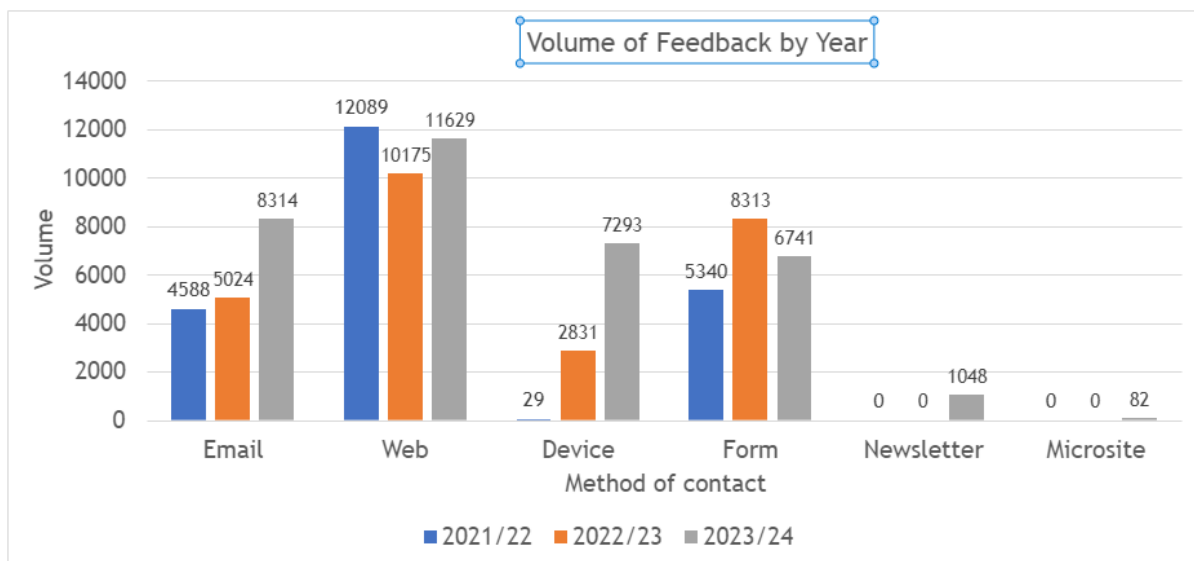
1.0 Customer Feedback in 2023/24

1.1 In 2023/24 we have continued to collect feedback from customers using our ESCC website and online forms, customers receiving email correspondence from some teams and those accessing services in-person. We have also begun collecting feedback from customers receiving newsletters from library and Adult Social Care (ASC) services and from Children’s Services (CSD) microsites which have been transferred in-house. The collection of feedback assists in monitoring customer satisfaction across the Council and provides valuable insight to inform service improvements. This has previously included providing more opportunity to self-serve, increasing accessibility, improving information on our website and reviewing the content of email responses.

1.2 Headlines for customer feedback in 2023/24:

- We received over 35,000 ratings across all feedback surveys, which is an increase of around 9,000 responses (26,000 in 2022/23).
- We received 8,552 verbatim comments from customers during the year which is an increase of 2,681. This amounts to around a quarter of customers leaving comments and provides valuable qualitative feedback which we can gain further insight from.
- Almost 50% of the comments we received were from customers who had a poor experience.
- Overall customer satisfaction for 2023/24 was 73% positive which is a decrease in satisfaction of 5% compared to the previous year.
- Customer satisfaction has decreased across all methods of feedback in comparison with the previous year. Emails decreased by 12%, website by 2%, forms by 9% and in-person by 1%.
- The pilots of both newsletter surveys and microsite surveys have been successful and recorded 96% and 55% satisfaction respectively.
- Feedback surveys remain well used with most methods of contact maintaining a high response rate or seeing an increase, suggesting they are easy to use and effective in obtaining a high level of quality feedback.

Graph 1 - Volume of customer feedback and comments, 2021/22, 2022/23 and 2023/24

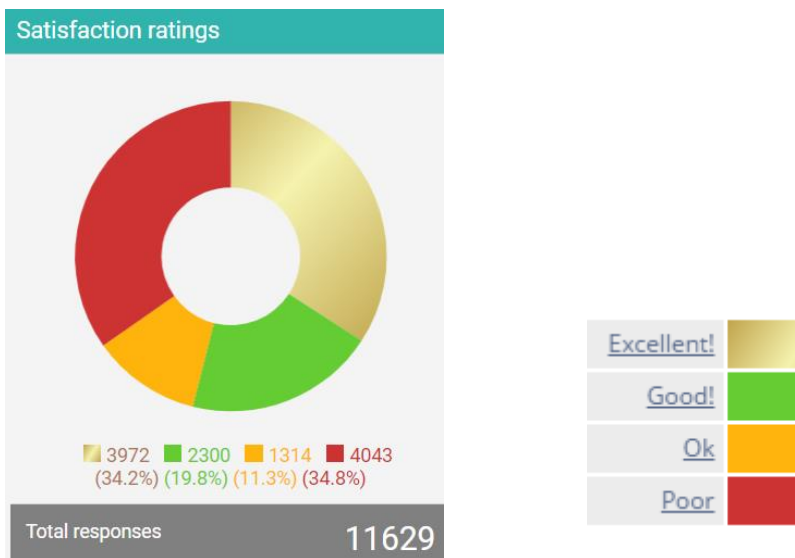


2.0 Website feedback 2023/24

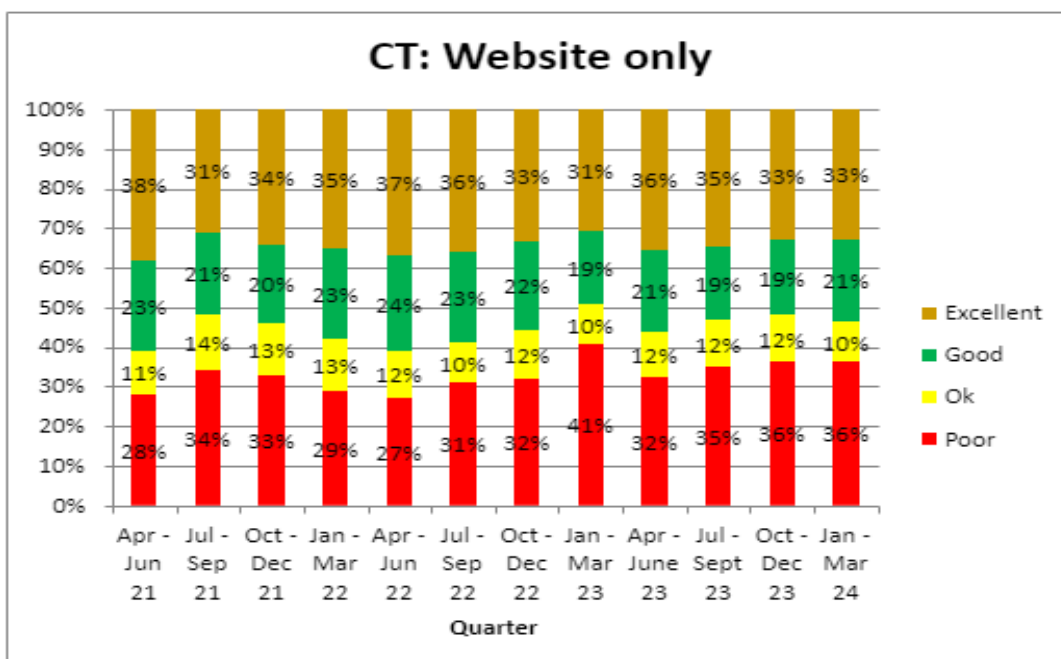
2.1 Key takeaways:

- Feedback surveys are available on around a quarter of our website content. This has not increased since last year despite the addition of surveys to some pages. The percentage has remained static due to the change in number of pages of content.
- The volume of website feedback has increased this year and is nearing pandemic levels when there was an increase in self-service. The volume of feedback on our website is the highest of the methods of contact.
- Of the 25% of corporate website webpages which have feedback surveys, 17% are on CET content, 3% on ASC content and 5% on CSD content.
- Overall satisfaction with the website for the year has decreased to 65% (<2% from last year). The results indicate that residents are using self-service resources, and the surveys continue to highlight in real time what isn't working so we can react quickly to our customers' feedback.

Graph 2 - Customer satisfaction ratings: Website, 2023/24



Graph 3 - Website satisfaction ratings: three-year comparison, 2021/22, 2022/23 and 2023/24



2.2 Services continue to analyse where their web content can be improved in response to feedback and have responded to feedback through:

- Improving the wording of content where this has been flagged as unclear on multiple occasions.
- Using feedback as a monitoring tool for trialling changes to content.
- Adding task pages to areas of the website which represent 'tasks', e.g. submitting a complaint, to improve accessibility.
- Removal of old 'report a problem' pages which were consistently receiving poor feedback. These have been redirected to relevant pages.
- Upgrading NSL Apply in Parking Services (in effect from 8 April 2024) to improve accessibility when applying for permits.

2.3 Trials for collecting feedback at the start of customer journeys were unable to begin. This would have been through surveys on web contact forms, however these were removed from the website and replaced with mailto links following mitigations in response to a security incident. The intention was to gauge customers satisfaction at different stages of their experience, rather than only following a response outcome they may disagree with. This is due to dissatisfaction being affected by services where we have to provide decisions based on policy, particularly enforcement decisions.

2.4 The number of PDF documents on the website are increasing which represents an issue to accessibility and reduces our ability to collect feedback on policy guidance documents, etc. The web team and web managers within services are continuing to encourage the use of html pages as an alternative.

2.5 Ongoing developments include:

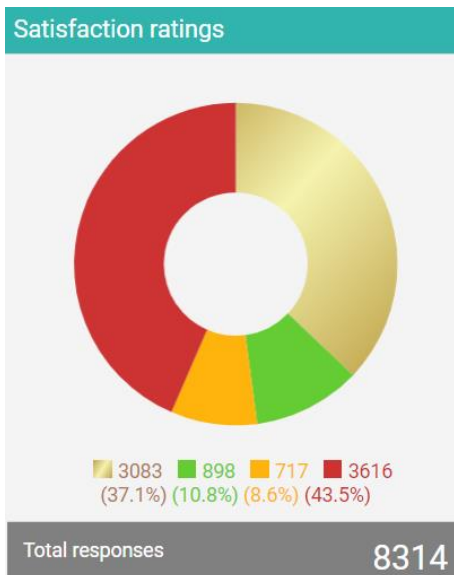
- Digital Services' Microsites Project and Governance Group has brought three sites in-house and continue to offer guidance on creating microsites and meeting microsite standards to ensure the necessary considerations for budget, governance, security, accessibility and content to ensure a positive customer experience. Microsites which aren't transferred are being reviewed to ensure privacy and accessibility criteria are met.
- Procurement of a new mapping system by Parking Services to replace PDF maps with interactive ones, in response to feedback that maps need updating and improving.

3.0 Email feedback 2023/24

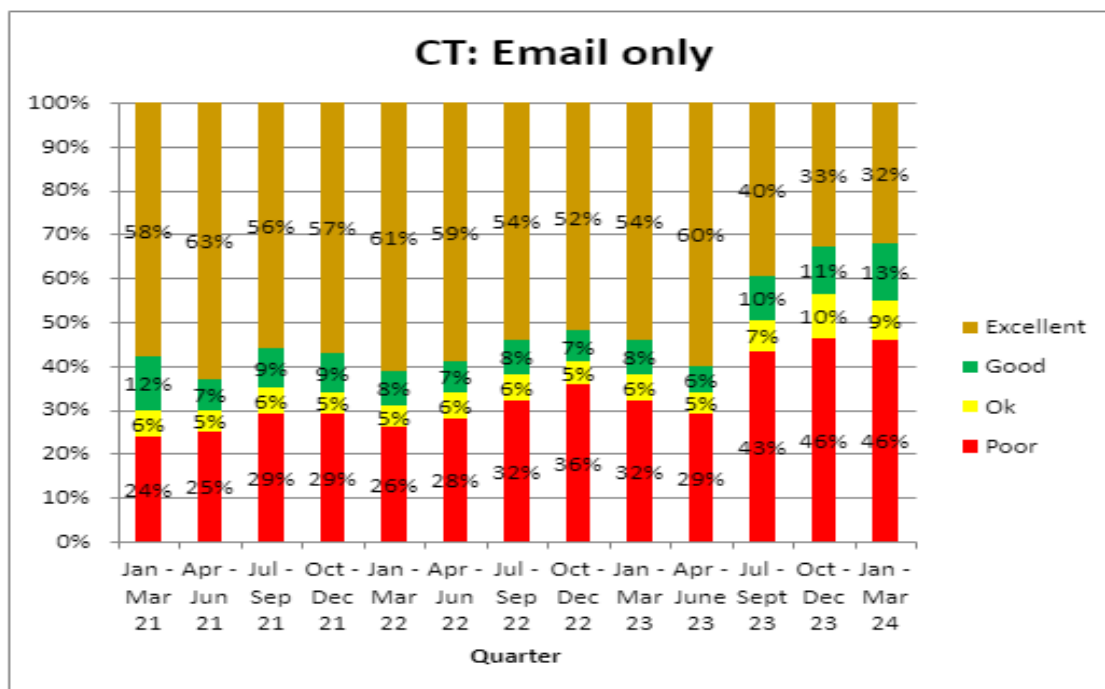
3.1 Key takeaways:

- We received over 8,000 pieces of feedback, which is around a 60% increase in responses from the previous year.
- 19 teams are using the email feedback surveys, an increase of 5 from last year.
- Overall customer satisfaction rating for emails was 56%, 12% lower than in 2022/23.
- The largest volume of negative ratings for email correspondence relate to services that engage with a large section of our residents by virtue of the services they provide, e.g., highways, parking and school admissions.

Graph 4 - Customer satisfaction ratings: Email, 2023/24



Graph 5 - Email satisfaction ratings: three-year comparison, 2021/22, 2022/23 and 2023/24



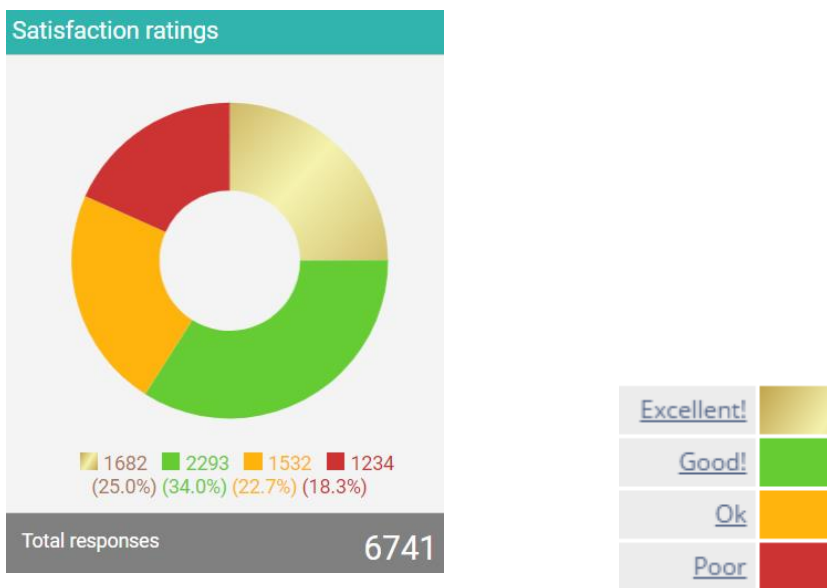
3.2 Analysis of customer feedback and staff comments show that:

- Staff have voiced frustration where feedback is provided but no details are given for them to follow up on concerns raised. The surveys do make clear that responses are anonymous, and customers can reply directly to services for any further conversation needed. Where sufficient information is provided to investigate the response, this is undertaken by services.
- Customers are increasingly providing reference numbers in their comments where they feel issues have not been resolved so they can be contacted using this information and these comments often relate to not being given a point of contact or a response from a 'no-reply' email address when they feel the matter is not resolved.
- Comments provided with 'excellent' ratings provide compliments about staff, quick service and the clarity of information provided.

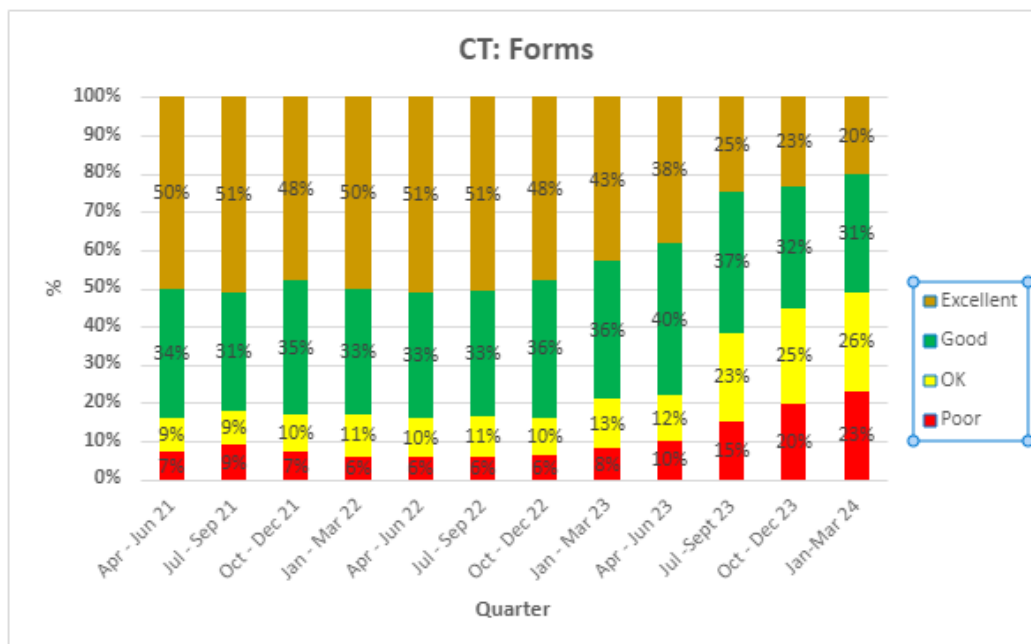
4 Form feedback 2023/24

- 4.1. Form feedback is still well used although there has been a decrease in responses of around 1,500 since last year. Following the success of collecting feedback through the Highways reporting and School Admissions forms in 2021/22, we began collecting feedback from seven ASC Portal forms and one CSD Portal form in 2022/23. Seven additional ASC portal forms, one additional CSD Portal form and one CET Parking Controls form have begun collecting feedback in 2023/24 bringing the total number of form surveys to 19.
- 4.2. Satisfaction with forms has decreased by 9% this year with a total of 82% satisfaction. This is a significant decrease considering these journeys have maintained a consistently high level of satisfaction around (90% above) in previous years. The most significant decrease in satisfaction for forms has been for Highways (see further analysis below).

Graph 6 - Customer satisfaction ratings - Forms, 2023/24



Graph 7 - Form satisfaction ratings: three-year comparison, 2021/22, 2022/23 and 2023/24



5.0 Customer experience feedback ‘drivers’

5.1 This year we have piloted feedback ‘drivers’ for surveys across two services; Customer Services Team and Parking Services Team. ‘Drivers’ are an additional option customers can select when they choose a rating which gives an indication of what has driven their satisfaction or dissatisfaction with their experience.

Figure 1 - Example of ‘drivers’ displayed on a survey

The image displays two examples of a survey feedback screen. Both screens have a blue header with the text 'Thank you for your response!'.
The left screen shows 'You clicked Excellent' and 'Thank you for clicking Excellent.' Below this, it asks 'What made your experience excellent?' and lists three blue buttons: 'Relevance of information', 'Time taken to find information', and 'Easy to navigate'. A text box below contains a disclaimer: 'Please do not add any information that identifies you, like your name or phone number. This form should not be used for enquiries. If you would like to contact us, or need a reply, call the Customer Services Team on 01273 482913 and they will be able to help you.' A green 'Submit comment' button is at the bottom right.
The right screen shows 'You clicked Excellent' and 'Thank you for clicking Excellent.' Below this, it asks 'What made your experience excellent?' and shows a confirmation message: 'You have selected 'Relevance of information'' with a blue checkmark icon and a 'Change selection' button. The same disclaimer and 'Submit comment' button are present.

5.2 For the last financial year, less than a quarter of the customers that responded to our surveys left a comment (total responses 26,343 and 5,875 comments left). Comments are left most commonly for excellent and poor ratings, and these provide valuable information about what has gone right and where improvements are needed.

5.3 ‘Drivers’ provide a ‘one-click’ option for people to provide further information about their experience without having to write a comment. The option to leave a comment is still available, however this provides an additional layer of qualitative data allowing customers to respond effectively and more quickly.

5.4 A maximum of eight options can be added to a survey and tailored to the method of contact or service requirements and priorities. The options have currently been determined by what teams are trying to achieve for their customers, e. g. good communication, easy to follow processes and clarity of information. These can be made available for all methods of contact except face-to-face feedback devices.

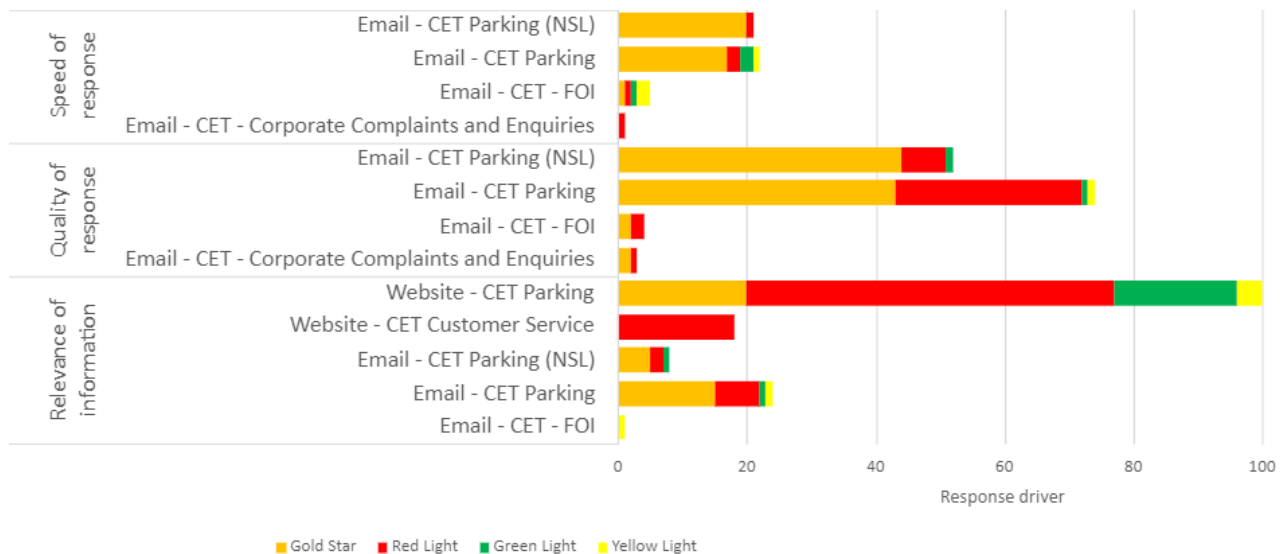
5.5 For 2023/24, the pilot teams have received 3,376 responses in total and 428 of these respondents have selected a ‘driver’. Of those 428, 194 have also left comments which is above the average for comments compared to the total responses provided, therefore the ‘drivers’ do not discourage customers from also leaving a comment and suggests that it may even encourage the customer to provide further information on their experience. 234 respondents selected a driver, rather than leave a comment. Therefore, including these is helpful to gain further understanding from customers without them needing to provide a full comment, however some comments have indicated that customers want to select more than one ‘driver’ which isn’t currently an option.

The ‘drivers’ being selected most regularly are:

- Relevance of information

- Quality of response
- Speed of response

Graph 8 - Survey responses showing rating for customer experience alongside the reason for the selection



5.6 Parking Services receive the most feedback from ‘drivers’ with the majority satisfied with their experience. The highest dissatisfaction is with the parking team website content with 68% of customers stating that the information was not relevant to them. This suggests that there may be improvements to be made on the navigation of the content if customers are not able to easily find what they are looking for.

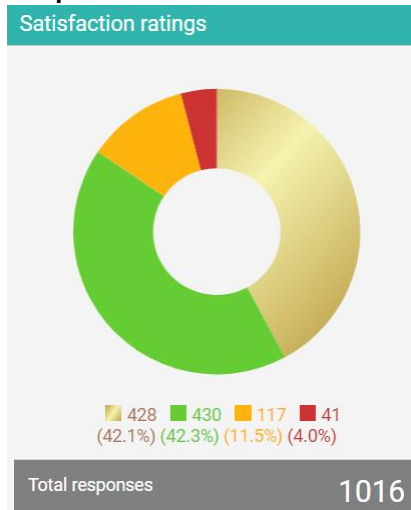
5.7 In response to the increase in dissatisfaction with emails especially, it’s likely to be beneficial to focus on using ‘drivers’ for more team emails to identify and improve any specific issues within correspondence for specific teams.

6.0 Newsletter Feedback 2023/24

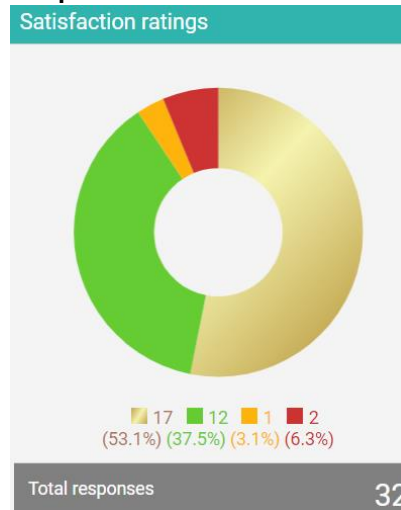
6.1 Collection of feedback on the libraries e-newsletter began in June 2023 and there are around 26,500 residents currently signed up to the newsletter. The response rate for this year is relatively low with only 1,016 responses since June 2023, however this has consistently received positive feedback each month with a satisfaction rating of 96%.

6.2 Similarly, a survey for the ASC Winter e-newsletter has been carried out this year. This newsletter is distributed to around 6,000 service users each year and has had only 32 responses since being distributed on one occasion on 9 November 2023. The audience for this newsletter is often older residents in the County who may not be familiar with online surveys or willing to provide feedback in this way. This may have contributed to the low response rate, however the newsletter received a satisfaction rating of 94% and the service will decide whether to distribute this again next year.

Graph 9 - Libraries Newsletter



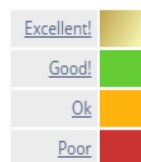
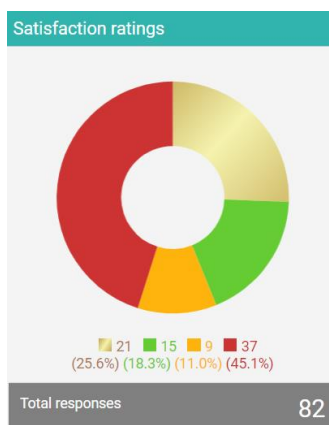
Graph 10 - ASC Winter Newsletter



7.0 Microsite Feedback 2023/24

7.1 There are currently two microsites managed by Children’s Services which are collecting feedback using the Customer Thermometer surveys. These are the [C-Zone](#) and [Family Hub](#) sites. The Family Hubs site began collecting feedback in June 2024 therefore the figures below reflect only the C-Zone site from 20 October 2023 - 31 March 2024.

Graph 11 - Customer satisfaction ratings - Microsites, 2023/24



7.2 The response rate is relatively low. Although C-Zone is available publicly, the site is for use by schools and educational settings, therefore the users are professionals rather than members of the public. This is likely to contribute to the low figures and it is apparent from some comments that parents are accessing the site for information relevant to them in error and this has been reflected in the ratings.

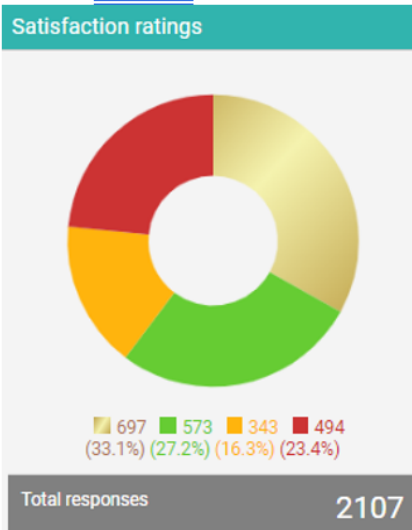
8.0 Comparison of feedback surveys received by department, 2023/24.

8.1 The following graph provides satisfaction ratings and volumes by department. There is higher usage of feedback surveys in CET where there is more web content covering the diverse range of services delivered by CET, which increases the volume of feedback for this department.

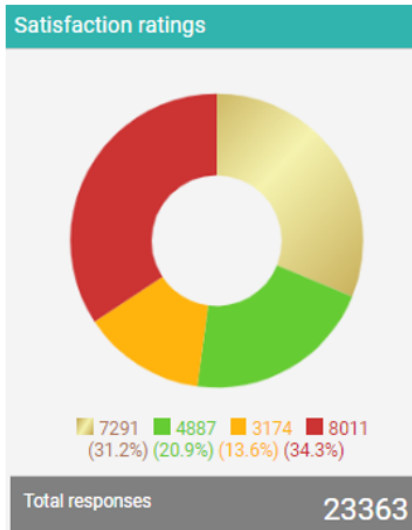
Graph 12 - Customer satisfaction ratings by department (excluding face to face) - 2023/24.

Figures include newsletters and microsities.

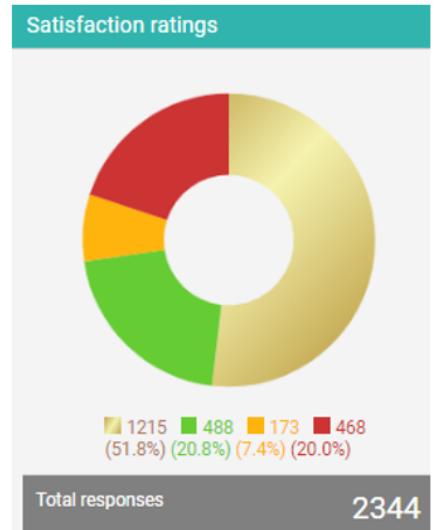
ASC Satisfaction rating 2023/24 76%



CET Satisfaction rating 2023/24 66%

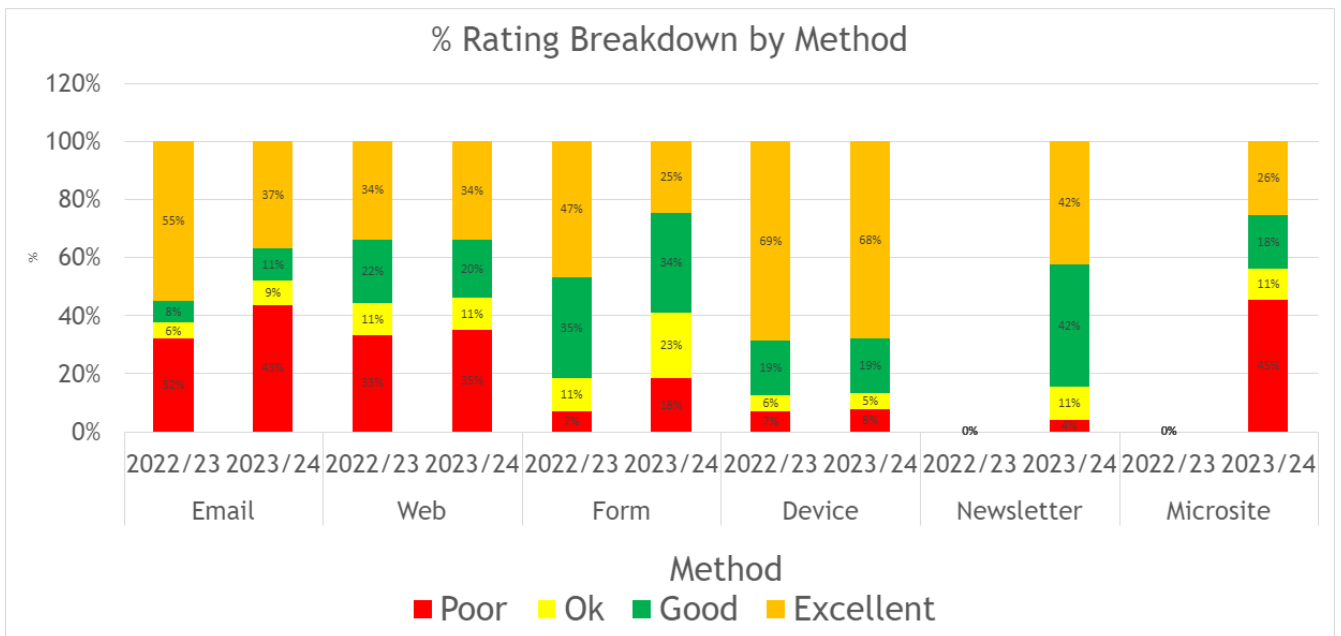


CSD Satisfaction rating 2023/24 80%



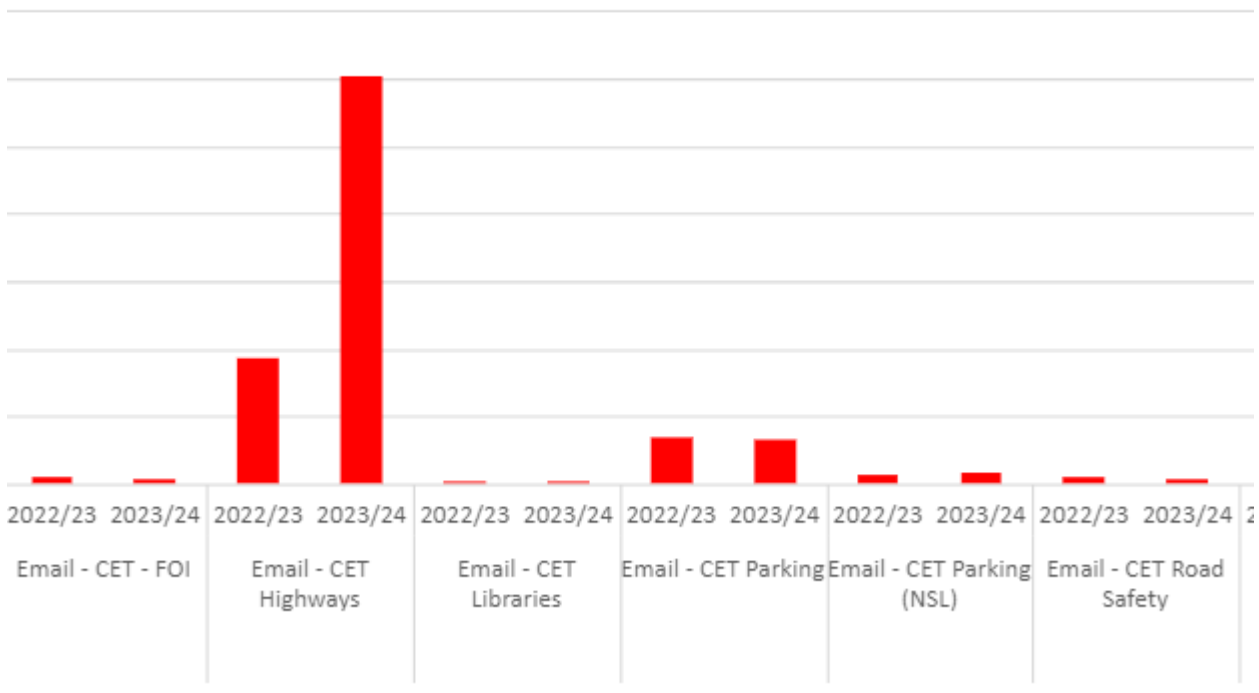
8.2 Satisfaction in both ASC and CSD have increased in comparison with 2022/23, however there has been a 10% drop in satisfaction in CET. The most significant decrease in satisfaction by method is attributed to emails and forms (see graphs 13-15 below).

Graph 13 - Customer satisfaction ratings by method for 2022/23 and 2023/24



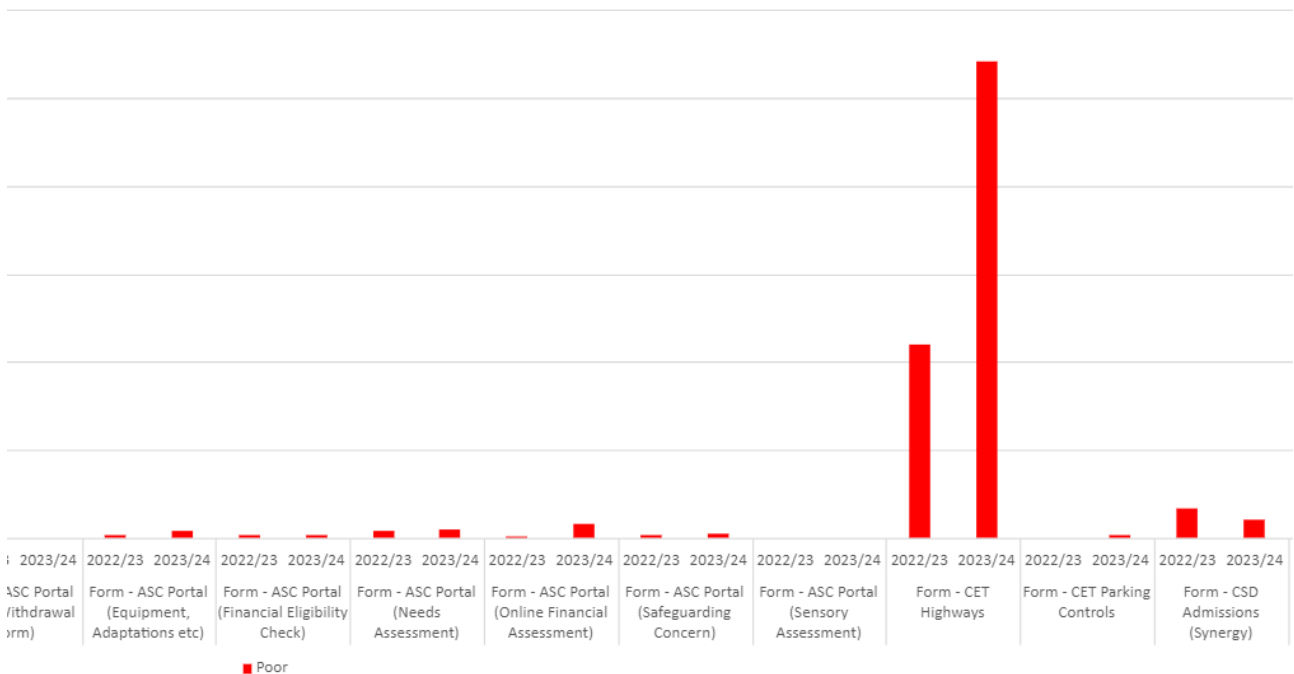
Graph 14 - An extract of the volume of poor feedback by CET team email for 2022/23 and 2023/34.

Poor Email Feedback - 2022/23 and 2023/24



Graph 15 - An extract of the volume of poor feedback for forms for 2022/23 and 2023/24.

Poor Form Feedback 2022/23 and 2023/24



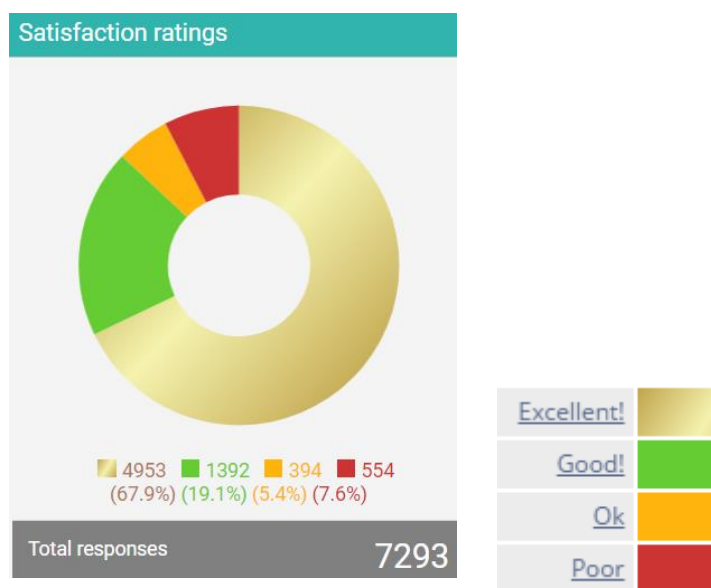
8.3 Highways have had the largest increase in poor feedback on emails and forms over this period and this has contributed to the overall decrease in satisfaction for CET. This increase in dissatisfaction for Highways in both emails and forms, aligns with the increase of potholes and defects on the network which has been worsened by the poor, and at times extreme, weather in the county over recent years. This is likely to be contributing to these results.

9.0 Face to face feedback 2023/24

9.1 A feedback device has been installed at Bexhill Library this year bringing the total number of in-person feedback devices to four. The response rate has more than doubled despite feedback unable to be gathered for some of this year due to problems with devices being logged out for longer periods than normal and hardware being broken.

9.2 The level of satisfaction with accessing services in-person remains high at 92% and the Library Service has requested that feedback devices are installed in 11 additional libraries in the upcoming year, which will extend feedback being available in 14 of our 17 libraries.

Graph 16 - Customer satisfaction ratings - Face to face (Tablets), 2023/24



10.0 Telephone feedback

10.1 As in the previous year, East Sussex Highways (ESH) remained the only service to continue collecting feedback by telephone in 2023/24. These telephone surveys paused at the start of the new highways contract in May 2023 and resumed in January 2024. Therefore, the figures provided are from 24 January to 31 March 2024. Numbers remain relatively low however the Highways Service have still found the telephone surveys valuable in addition to other measures that make up the customer satisfaction performance indicator for the contract.

10.2 There were 208 customers who provided feedback during 2023/24, which is only 170 less respondents than for the full year in 2022/23 (378) so the response rate is showing an increase and 94% of customers were satisfied with the overall service they had received. This indicates that overall satisfaction for service by telephone has increased for the period 24 January - 31 March 2024 in comparison with 2022/23 (68%).

Table 1 - Telephone survey statistics: East Sussex Highways, 2023/24

The table below shows the total volume of feedback received and the average of customers satisfaction with elements of their experience out of 5.

Monthly scores	Overall	Time Taken	Helpful /Polite	Understood Needs	Info/Advice	Average	Total feedback recorded	% Positive

Jan-24	4.3	3.7	4.7	4.7	4.4	4.4	26	88.5%
Feb-24	4.5	4.3	4.7	4.7	4.4	4.5	64	95.3%
Mar-24	4.7	4.5	4.8	4.8	4.8	4.7	118	97.5%

Table 2 - Telephone survey statistics: East Sussex Highways, 2023/24

The table below shows the feedback broken down by the responses given by customers for each of the measures of satisfaction. Not all customers answered every question or may have ended the survey early.

	Overall	Time Taken	Helpful/Polite	Understood Needs	Info/Advice
Excellent	162	132	183	184	164
Good	23	41	14	13	21
OK	8	19	2	2	10
Poor	3	6	0	1	1
Very Poor	9	10	7	6	9
Totals	205	208	206	206	205
Average Score	4.6	4.3	4.8	4.8	4.6
% Satisfied	94%	92%	97%	97%	95%

10.3 At the Customer Experience Board in March 2023, it was agreed to postpone a re-trial of telephone surveys and additional SMS surveys for other services across the Council until we have the necessary statistics of the number of telephone calls and related hunt groups. The Customer Contact Data project team are continuing to work on obtaining these figures and the Customer Services Team are also keeping up to date on progress of the incoming telephony system before advancing a trial of telephony surveys for other services. The Customer Services Team have also worked with teams across the council to investigate hunt group journeys to contribute to the wider telephony project.

11.0 Customer Feedback further rollout

11.1 The further rollout of customer feedback surveys continues and the steps which have taken are highlighted throughout this report but are listed here for clarity:

- Face to face feedback device installed at Bexhill Library
- Successful pilot of Libraries newsletter and ASC Winter Newsletter
- Surveys added to CSD Microsites; C-Zone and Family Hubs
- Five additional form surveys added: Parking Request Form, 4 ASC Portal forms for the Deprivation of Liberty Safeguards Team.
- Piloted use of feedback 'drivers' for Customer Services and Parking Services Teams on emails, web and forms.

11.2 Ongoing investigations and suggestions for further rollout:

- Installation of devices at Family Hubs
- Inclusion on chatbot/Digital Assistants
- Expand use of 'drivers' wording on surveys, notably highways emails
- Installation of feedback devices in 11 additional public library sites

12.0 Customer Service Network

12.1 The Customer Services Network in 2023/24 continued to provide a vital platform for staff from across the authority for sharing lessons learned and best practice and discuss challenges faced by their services.

12.2 The meetings have allowed us to share feedback results from the feedback surveys and gain valuable insight from services in response to their own feedback. We have also shared the approved recommendations from the Customer Experience Board and used the network to encourage the use of feedback surveys.

12.3 Significant updates shared with teams have been the trial of drivers, feedback for large mailouts/newsletters and project updates for the telephony replacement and addressing violence, harassment and discrimination against staff.

13.0 Conclusions

13.1 The increased quantity of customer feedback gathered during 2023/24 is attributed to the increase in number of forms and email surveys available as well as a review and update of web pages hosting the surveys. This is alongside customers being more active in providing feedback for certain services, such as highways, parking and ASC team emails and portal forms.

13.2 We will work with library services to complete the roll-out of devices into most of their libraries. We also investigate the possibility of providing feedback devices in Family Hubs. As the use of digital assistants becomes more prevalent, we will work with teams to explore the possibility of using customer feedback surveys on this platform.

13.3 We will continue the pilot of 'drivers' on surveys ensuring that the wording is appropriate for the audience and with a focus on extending the pilot to highways email and form surveys to try and identify reasons for the increase in poor feedback.

13.4 Service-specific feedback still proves valuable to allow individual services to review their own feedback and make local changes, while the analysis of all surveys by the Customer Services Team provides a useful Council-wide overview.

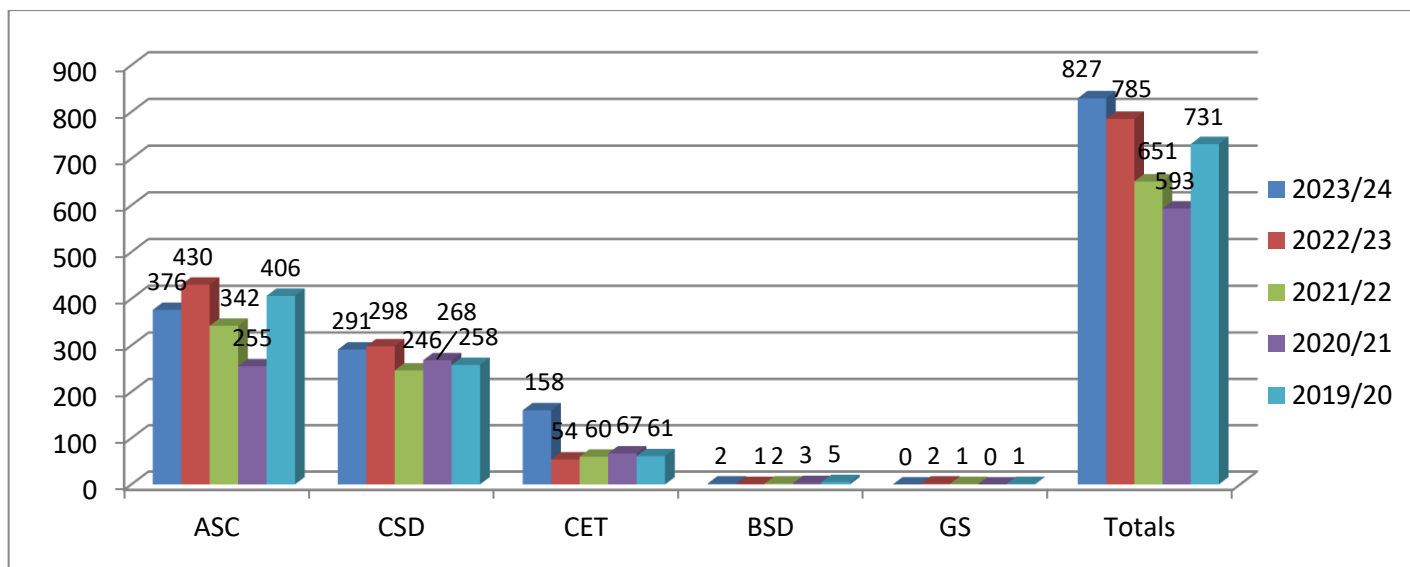
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26 September 2024

Appendix 3 Complaints and compliments by department 2023/24

1. Summary

1.1 ESCC received 827 complaints in total in 2023/24, compared to 785 complaints in 2022/23, which represents an increase of 6%. The following graph shows the number of complaints received over the last five years by department and in total. Please note comparisons of complaints and compliments between departments are not valid due to the nature of the different services provided by each department.



1.2 The following table presents the total number of Local Government & Social Care Ombudsman (LGSCO) complaints for ESCC where decisions were made, and the percentages of upheld complaints compared to similar authorities for the last three years.

Year	Investigated	Upheld	Not upheld	Not investigated	Total	ESCC uphold rate %	Average County Council uphold rate %
2023/24	32	28	4	54	86	88%	85%
2022/23	26	20	6	58	84	77%	80%
2021/22	38	25	13	51	89	66%	71%
2020/21	30	21	9	38	68	70%	71%

1.3 For upheld complaints for ESCC where there were remedies to carry out, ESCC received 100% satisfaction with compliance. The following is a breakdown of the remedies provided in 2023/24:

- Apology 17
- Financial Redress 30: Avoidable distress / time and trouble (20); loss of service (7); quantifiable loss (3)
- New appeal, review or reconsidered decision 3
- Procedure or policy review / change 7
- Reassessment 1

2. Adult Social Care and Health

	Change	2023/24	2022/23	2021/22
Number of complaints received	↓13%	376	430	342
Number of complaints upheld/partially upheld	↓23%	168	218	146
Number of compliments	↑50%	2,268	1,512	950

2.1 Summary

2.1.1 Adult Social Care (ASC) recorded a total of 376 complaints during the reporting period, down from 430 the previous year. In 2022/23, 51% of complaints were upheld/partially upheld, this year 45% were upheld/partially upheld.

2.1.2 Demand on services continues to rise and complaints continue to be multi-faceted, across services, providers, and organisations. The biggest area of complaints related to assessment (80), which was just under a quarter (24%) of all complaints received. Just over half of the complaints (41) in relation to assessment were upheld or partially upheld. Of these, just over a third (14 complaints) were in relation to a delay.

2.1.3 The second biggest area of complaints related to provision of service, which was just over a fifth (23%) of all complaints received (77 complaints). There were 36 complaints (47%) upheld or partially upheld in relation to provision of service. Of these, just over half (19 complaints) were in relation to the service not being to the quality or standard expected.

2.1.4 We have continued to strengthen our complaints duty function to provide a person centred and resolution focussed approach. The aim is to resolve matters before going into the complaints process. This year we resolved 547 enquiries out of 560. Just 13 (2%) enquiries could not be resolved through this triage approach and went into the complaints process.

2.1.5 ASC has recorded the highest ever number of compliments over a year, with 2,268 expressions of thanks and heartfelt praise for care and support services. There are significantly more compliments (2,268) about our services than complaints (376). The ratio per compliment to complaint is 6:1 compared with 4:1 last year. Our Joint Community Rehabilitation Service recorded over a 1,000 compliments (1,286). This was followed by our Carers Break/Dementia Service (375) and then our neighbourhood support teams (65).

2.2 Action taken to improve the service

2.2.1 In our 2022/23 report we reported the review of the Direct Payments process for care and support. The review considered the information shared with people to ensure it was provided at an earlier stage in the process and was informative and accessible. It also developed how teams worked together to achieve outcomes in a more timely and smooth way. This year we recorded six complaints about the Directs Payments process compared with 22 in 2022/23, this represents a 73% reduction.

2.2.2 To avoid delay and improve collaborative working, our Appointee and Deputyship Team have reviewed their process for circumstances where a person dies without being in contact with family and a funeral needs to take place.

2.2.3 Related to Domestic Abuse, Harassment and Stalking risk identification, we have revised the guidance in the Multi Agency Risk Assessment Conference (MARAC) Operating Protocol that governs the MARAC process. It now makes it clear when letters that evidence a MARAC discussion, should be issued.

2.2.4 Work is underway to review waiting times for assessment. This includes supporting teams to operate a consistent approach to waiting lists and to provide helpful and consistent information to people who are waiting for an assessment.

2.3 Local Government & Social Care Ombudsman (LGSCO)

2.3.1 The table below sets out the LGSCO findings for complaints about ASCH.

Year	Investigations		Closed after initial enquiries	Invalid/incomplete	Referred back	Advice given	Total
	Upheld	Not upheld					
2023/24	13	2	8	1	8		32
2022/23	6	3	8	3	7	1	28
2021/22	17	4	7	4	6		38

2.3.2 Further analysis for ASCH of the LGSCO complaints will be provided in the department's Annual Complaints Report. The report will be available later in the year and published on the Council's website: [Comments, compliments and complaints annual report](#). This report is provided under the Local Authority Social Services and National Health Service Complaints (England) Regulations, 2009.

3. Children's Services

	Change	2023/24	2022/23	2022/21
Number of complaints received	↓ 2%	291	298	246
Number of complaints upheld/partially upheld	↓ 3%	148	153	97
Number of compliments	↑ 49%	496	332	326

3.1 Summary

3.1.1 Children's Services received a total of 291 complaints during the reporting period, down from 298 complaints received in 2022/23. Contacts to the Complaints Service has increased from 769 in 2022/23 to 990 in 2023/24. The fall in complaints can be attributed to the significant time and effort made to resolve complaints early when possible.

3.1.2 Complaints from adults on behalf of children fell from 289 to 272, a decrease of 6%. The number of complaints from children and young people decreased from 9 to 4. The sample size is too small to be of statistical significance, although we do know that whilst formal complaints from young people are rare, our children's residential settings receive and resolve lower-level issues outside the regulated process.

3.1.3 In 2023/24, 51% of complaints were upheld/partially upheld. This is the same percentage as last year.

3.2 Action taken to improve the service

3.2.1 Children's Services continues to use the learning from complaints and how people contact us as a tool in improving the services offered by the department and in improving our digital offer through our website. We have continued to track key themes and complaint types to make enhancements to our call and complaint handling process. The Customer Relations Manager regularly meets with senior managers across Children's Services to share outcomes from complaints and associated corrective actions. This ensures that learning is logged and tracked and that what we learn from complaints is having a positive impact on the services that the Council delivers. Below are examples of learning themes identified and improvement actions taken as a result of complaints.

3.2.2 Actions taken to improve services in 2023/24 include the following:

Social care

Disagreement with family assessments

- Last year we saw an increase in complaints about delays in social care teams completing Family Assessments. This has now improved with fewer complaints about this issue this year. This year there has been an increase in complaints from people expressing disagreement with the information within Family Assessments. On closer inspection, a number of these complaints were from parents who had engaged with the process but had not been given an opportunity to meet with a social worker after the assessment was completed.
- The Customer Relations Manager met with social care managers to discuss this rise in complaints, the barriers to meeting with parents when the assessment period was over, and how to ensure that parents could share their views when they had received the completed assessment. As a result, in the last three months of the reporting year, six complaints about this issue were resolved and withdrawn. Further, every customer who complains about a family assessment is given the opportunity to add their statement to the records, to be read alongside the original information. This ensures that families' views are fairly heard and recorded. Work continues on improving the timeliness of Family Assessments.

Education

SEND Assessment and Planning

- In 2022/23, the Special Educational Needs and Disability (SEND) Assessment and Planning team received most complaints about communication and delays during the statutory Education, Help and Care (EHC) Plan process. Customers complained that they did not receive timely responses and were not kept up to date with what was happening. Unfortunately, the Assessment and Planning Team had experienced significant staffing shortages and staff changes during the previous 18 months which had impacted on the service. This meant an increased workload for staff in post, with the additional pressure of more children needing assessment and support.
- In 2023/24, actions which have been taken to address this include:
 - A Training and Development Consultant has been appointed who oversees a refreshed induction programme for new starters
 - Additional training for all staff
 - Reallocation of some tasks to specialist teams to create capacity for communication
 - A review of all processes to streamline them and reduce the need for queries
 - A focus on quality not quantity, so that increased statutory demand does not reduce customer service.
- Although these changes were made in this year, there has already been a decrease in complaints about communication from the Assessment and Planning Team. This is a good example of learning from complaints being used to embed changes and improve services.

3.3 Compliments

3.3.1 In addition to the complaint-related contacts received, we also logged 496 compliments. Despite the increase in complaint-related contact, the high rise in compliments indicate that customers are also having positive experiences. This is 49% higher than the 332 compliments received in 2022/23. This increase can be attributed to a change in how compliments are collected. Compliments are often shared informally making them harder to collect and record centrally. This year, new systems were implemented to ensure that each division within the department was reliably sharing positive feedback. The changes were introduced in year and will be continued and embedded over the next year.

3.4 Local Government & Social Care Ombudsman

3.4.1 The table below sets out the LGSCO findings for complaints about Children's Services:

Year	Investigations						
	Upheld	Not upheld	Closed after initial enquiries	Invalid/incomplete	Referred back	Advice given	Total
2023/24	13	2	14		7		36
2022/23	11	2	15	1	10		39
2021/22	8	9	11	2	7	1	38

3.4.2 There is further analysis of these complaints in the Children’s Services Annual Complaints Report. The report has been published on the council’s website: [Children’s Services Annual Complaints Report](#). This report is required under The Children Act 1989 Representations Procedure (England) Regulations 2006.

4. Communities, Economy & Transport (CET)

	Change	2023/24	2022/23	2021/22
Number of complaints received	↑ 193%	158	54	62
Number of complaints upheld/partially upheld	↑ 527%	94	15	18
Number of compliments	↓ 34%	270	409	430

4.1 Summary

4.1.1 There were 158 complaints received in CET in 2023/24, compared to 54 complaints in 2022/23, and 62 complaints in 2021/22. Of the 158 complaints received in 2023/24, 94 were fully or partly upheld which was 59% of complaints received, compared to 28% of complaints being fully or partly upheld in 2022/23.

4.1.2 There were 67 complaints upheld or partly upheld in relation to issues with the quality of the service delivery and 24 complaints regarding poor communications with our customers. There with three complaints upheld or partly upheld regarding policy, for example where a Council policy was not followed.

4.1.3 For complaints where quality in service delivery was an issue these related to delays in works or repairs taking place, confusing or poor explanations, incorrectly entered contact details, confusing auto-responses received (which didn’t convey information needed or conflicting information about the enquiry), and issues with inspections or investigations that had taken place. These were sometimes due to, or in combination with, miscommunication between staff. For communications issues these related to lack of or delay in responses, and not keeping customers up to date.

4.1.4 The increase in complaints this year is due to an increase of complaints in relation to our Highways Service. This increase aligns significantly with the increase of potholes and defects on the highway network which has been worsened by the poor, and at times extreme weather in the county over recent years.

4.1.5 East Sussex County Council (ESCC) is not unique in these circumstances as a Highways Authority. Nationally there has been an increasing number of reports of highways defects. As with all Councils as Highways Authorities, ESCC will continue to prioritise the maintenance where needed and focus on preventive measures where it can.

4.1.6 The highest number of fully or partly upheld complaints (49%) were in relation to Highways claims. The complaints policy does not cover complaints about the outcome of claims (which is by an appeal); it does cover the handling of claims. There was a combination of issues

around communication such as delays in responses and quality such as errors in the processing. Balfour Beatty Living Places have assured the ESCC they are committed to reducing the backlog and responding quickly and efficiently to the complaints regarding claims and providing responses to clarify outcomes and making payments for the claims, where they are being given.

4.2 Action taken to improve the service

4.2.1 Actions taken to improve services in 2023/24 as a result of complaints, include the following:

- Transport Hub Team identified where improvements could be made to internal communications regarding school transport and put in place new measures to improve communications with Children’s Services.
- Where complaints were regarding poor communication or customer service regarding complaints in the Highways Contact Centre, staff received training about the ESCC complaint process and further training on delivering excellent customer service.
- Improvements were made to records management in East Sussex Highways in order to improve service delivery and maintenance schedules.
- Training and guidance were provided to staff in the Library and Information Service to ensure the correct procedures were followed when issuing a parking permit.

4.3 Compliments

4.3.1 There were 270 compliments logged in CET in 2023/24, compared to 409 compliments in 2022/23. Compliment numbers continue to be higher than the number of complaints, which indicates that staff continue to deliver high quality services and show their commitment to customers. In 2023/24, CET received a high number of compliments from customers expressing their appreciation for the high quality of the services they received and the commitment from staff in providing those services.

4.3.2 There is often fluctuation in numbers of compliments received due to factors such as events, promotions, and works or developments taking place. For 2023/24, the number of compliments for East Sussex Highways began lower than usual; however, compliments increased quarter on quarter through the year for Highways as the backlog diminished and services improved.

4.4 Local Government & Social Care Ombudsman

4.4.1 The table below sets out the LGSCO findings for complaints about CET:

Year	Investigations		Closed after initial enquiries	Invalid/ incomplete	Referred back	Total
	Upheld	Not upheld				
2023/24	2		12	1	2	17
2022/23	2	1	11			14
2021/22	0	0	8	1	1	10

4.4.2 There were two upheld complaints in relation to CET services, and both were remedied during the LGSCO complaint process. One complaint was regarding the vibrations from heavy vehicles on a road which were disturbing the complainant. This was remedied by planning the resurfacing of the road. The other upheld complaint was regarding the delay in processing the payment of a Highways claim, and it was remedied by the claim and payment being processed. There were no themes to draw from such a low number of upheld complaints.

5. Business Services

	Change	2023/24	2022/23	2021/22
Number of complaints received	-	2	1	2
Number of complaints upheld/partially upheld	-	2	1	1
Number of compliments	n/a	n/a	n/a	n/a

5.1 Summary

5.1.1 There were two formal complaints for Business Services in 2023/24, and both were upheld. One complaint was upheld due to the inadequate services provided by a contracted third party. The other complaint was upheld due to lack of communications with the customer. There were no themes to draw from such a low number of complaints for Business Services.

5.2 Compliments

5.2.1 No compliments from external, individual customers were reported departmentally for Business Services in 2023/24.

5.3 Local Government & Social Care Ombudsman

5.3.1 There were no LGSCO complaints investigated about Business Services in 2023/24.

6. Governance Services

	Change	2023/24	2022/23	2021/22
Number of complaints received	-	0	2	1
Number of complaints upheld/partially upheld	-	0	0	0
Number of compliments	n/a	n/a	n/a	n/a

6.1 Summary

6.1.1 There were no complaints logged for Governance Services in 2023/24.

6.2 Compliments

6.2.1 No compliments were recorded in 2023/24.

6.3 Local Government & Social Care Ombudsman

6.3.1 The table below sets out the LGSCO findings for complaints about Governance Services:

Year	Investigations		Closed after initial enquiries	Invalid/incomplete	Referred back	Total
	Upheld	Not upheld				
2023/24			1			1
2022/23	1					1
2021/22						0

7. Chief Executive's Office

7.1 Customers often address their complaints to the Chief Executive (CE) or Leader and so they are received through the CE Office. However, the complaints are about issues with services provided by departments rather than the CE Office itself, so these are recorded by the relevant department and form part of their figures and analysis.

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Governance Committee

26 September 2024

Appendix 4 Formal requests for information 2023/24

1.0 Complaint process: internal reviews of formal information requests

1.1 Complaints regarding the final responses to Freedom of Information (FOI) and Environmental Information Regulations (EIR) Requests have their own procedure as an internal review carried out by Legal Services.

1.2 For Data Protection subject access requests (SARs), the Customer Services Team (CST) reviews and responds if the requester remains dissatisfied and asks for legal support if it is particularly complex. Customers can complain to the Council's Data Protection Officer if they remain unhappy. For all the types of information requests, there is the option to complain to the Information Commissioner's Office (ICO) if the customer remains dissatisfied.

1.3 In 2023/24, we received six requests for internal reviews, compared to four in 2022/23. Out of the six internal reviews, Legal Services found fault with five requests. For four of the internal reviews further information was provided to the requesters. For the fifth internal review fault was found in using the over 18 hour exemption; however, no information was held and so the Council was unable to disclose any information. The sixth internal review found no fault and the over 18 hour exemption was used correctly. Internal reviews are used to identify where improvements can be made and they are reviewed thoroughly irrespective of the outcomes.

2.0 Complaints to the Information Commissioner's Office (ICO)

2.1 If a requester makes a complaint to the ICO, the ICO first serves an Information Notice to the Council requesting it reviews the complaint and tries to resolve it. The CST received three information notices regarding information requests in 2023/24, compared to two in 2022/23. All three notices in 2023/24 requested that the Council respond to the requesters as the three responses were overdue. Two of these have been resolved and completed and one response is currently underway.

2.2 There are various reasons why the ICO may contact the Council. These reasons are no longer solely about information requests the Council receive. ICO also contacts the Council regarding complaints it receives in relation to any data protection concern including potential data security incidents. The ICO initially takes an informal approach and raises any concerns on behalf of a customer about their personal data. ICO will ask us to investigate and take ownership in the first instance and to report back to the ICO how we remedied the situation directly with the customer. Sometimes communication takes place directly with a service or mostly in contact with our Data Protection Officer. Some of the reasons the ICO contact us do not fall under this annual report; however, where contact from the ICO is relevant to this report, it has been included.

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17 July 2024

By email

Ms Shaw
Chief Executive
East Sussex County Council

Dear Ms Shaw

Annual Review letter 2023-24

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2024. The information offers valuable insight about your organisation's approach to complaints, and I know you will consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to ensure effective ownership and oversight of complaint outcomes, which offer valuable opportunities to learn and improve. In addition, this year, we have encouraged Monitoring Officers to register to receive the letter directly, supporting their role to report the decisions we uphold to their council.

For most of the reporting year, Paul Najsarek steered the organisation during his tenure as interim Ombudsman, and I was delighted to take up the role of Ombudsman in February 2024. I look forward to working with you and colleagues across the local government sector to ensure we continue to harness the value of individual complaints and drive and promote systemic change and improvement across the local government landscape.

While I know this ambition will align with your own, I am aware of the difficult financial circumstances and service demands that make continuous improvement a challenging focus for the sector. However, we will continue to hold organisations to account through our investigations and recommend proportionate actions to remedy injustice. Despite the challenges, I have great confidence that you recognise the valuable contribution and insight complaints, and their swift resolution, offer to improve services for the public.

Complaint statistics

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

Complaints upheld - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic. This year, we also provide the number of upheld complaints per 100,000 population.

Compliance with recommendations - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

Satisfactory remedy provided by the authority - In these cases, the organisation upheld the complaint and we agreed with how it offered to put things right. We encourage the early resolution of complaints and give credit to organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 24 July 2024. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

Your organisation's performance

In the previous two years, we have raised concerns about your Council's late responses to our enquiries. It is therefore disappointing that we have experienced similar issues this year, with almost half of the Council's responses received after the deadline set.

I, again, ask that you take action to improve response times to our enquiries. It is important we are provided with the information we have asked for promptly, and that, where you encounter delays, you keep us informed. If there is any support my office can provide to help improve the situation, please do let me know.

Supporting complaint and service improvement

In February, following a period of consultation, we launched the [Complaint Handling Code](#) for councils, setting out a clear process for responding to complaints effectively and fairly. It is aligned with the Code issued to housing authorities and landlords by the Housing Ombudsman Service and we encourage you to adopt the Code without undue delay. Twenty councils have volunteered to take part in an implementation pilot over the next two years that will develop further guidance and best practice.

The Code is issued to councils under our powers to provide guidance about good administrative practice. We expect councils to carefully consider the Code when developing policies and procedures and will begin considering it as part of our processes from April 2026 at the earliest.

The Code is considered good practice for all organisations we investigate (except where there are statutory complaint handling processes in place), and we may decide to issue it as guidance to other organisations in future.

Our successful complaint handling training programme continues to develop with new modules in Adult Social Care and Children's Services complaint handling available soon. All our courses include practical interactive workshops that help participants develop their complaint handling skills. We delivered 126 online workshops during the year, reaching more than 1,700 people. To find out more visit www.lgo.org.uk/training or get in touch at training@lgo.org.uk.

We were pleased to deliver two online complaint handling courses to your staff during the year. I welcome your Council's investment in good complaint handling training and trust the courses were useful to you.

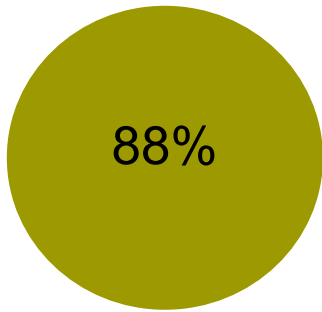
Returning to the theme of continuous improvement, we recognise the importance of reflecting on our own performance. With that in mind I encourage you to share your view of our organisation via this survey: <https://www.smartsurvey.co.uk/s/ombudsman/>. Your responses will help us to assess our impact and improve our offer to you. We want to gather a range of views and welcome multiple responses from organisations, so please do share the link with relevant colleagues.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Amerdeep Somal', followed by a horizontal line.

Amerdeep Somal
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Complaints upheld



88% of complaints we investigated were upheld.

This compares to an average of **85%** in similar organisations.

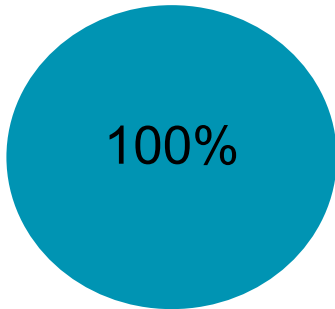
28
upheld decisions

This is 5.1 upheld decisions per 100,000 residents.

The average for authorities of this type is 4.5 upheld decisions per 100,000 residents.

Statistics are based on a total of **32** investigations for the period between 1 April 2023 to 31 March 2024

Compliance with Ombudsman recommendations



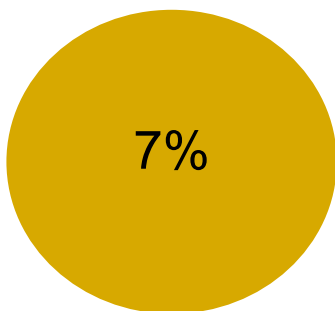
In **100%** of cases we were satisfied the organisation had successfully implemented our recommendations.

This compares to an average of **100%** in similar organisations.

Statistics are based on a total of **20** compliance outcomes for the period between 1 April 2023 to 31 March 2024

- Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

Satisfactory remedy provided by the organisation



In **7%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **7%** in similar organisations.

2
satisfactory remedy decisions

Statistics are based on a total of **28** upheld decisions for the period between 1 April 2023 to 31 March 2024