

Report to Standards Committee
12th September 2018
By the Head of Customer Services
INFORMATION REPORT
Not exempt



The Local Government & Social Care Ombudsman Annual Review 2017/2018

Executive Summary

The purpose of this report is to update Members on the number, nature and the outcomes of complaints made to the Local Government & Social Care Ombudsman (LGSCO) in 2017/18.

Recommendations

The Committee is recommended to note the contents of the report.

Reasons for Recommendations

- i) To ensure that the Committee has the necessary information to ensure that complaints can be made to the Council with ease and complaints are dealt with appropriately. In addition the Council uses its complaints process to improve services delivery.

Background Papers: None

Consultation: None

Wards affected: All

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Background Information

1 Introduction

The purpose of this report

- 1.1 The purpose of this report is to update Members on the number, nature and the findings of complaints made to the LGSCO in 2017/18.

Background

- 1.2 The LGSCO requires complainants to exhaust the Council's internal complaints procedure before it will investigate a complaint. Where the LGSCO receives a complaint that has not first been processed internally by the Council, it will normally refer the complainant to the Council's internal complaints procedure. In urgent circumstances, however, the LGSCO will inform the Council that it has opted to investigate a complaint without referral to the Council's internal complaints procedure.
- 1.3 The LGSCO continues to investigate complaints following exhaustion of the Council's internal complaints procedure. However, it also issues decisions without investigation, for example, where the details provided by the complainant appear to show that a lengthy timescale has elapsed from the date of the subject matter of the complaint.
- 1.4 Details of all complaints, compliments and suggestions advised to the Feedback Officer are reported quarterly to the Senior Leadership Team and trends included in the corporate plan priorities, finance and performance report considered by the Overview & Scrutiny Committee.

2 Statutory and Policy Background

Statutory background

- 2.1 The statutory background is found in the Local Government Act 1974 (as amended) and the Local Government and Public Involvement in Health Act 2007.
- 2.2 The Local Government Act 1974 (as amended) specifies the two main statutory functions for the LGSCO:
- To investigate complaints against councils and some other authorities; and
 - To provide advice and guidance on good administrative practice.
- 2.3 The Local Government and Public Involvement in Health Act 2007, also sets out the LGSCO's role:
- The LGSCO may look at service failure in addition to maladministration;
 - The LGSCO will have a limited power to investigate where an apparent case of maladministration comes to light even though they have received no complaint about the matter;
 - Complaints about the procurement of goods and services are within its jurisdiction;

- The LGSCO may issue a 'statement of reasons' instead of a report if they are satisfied with the council's proposals to remedy its failures;
- The LGSCO may publish decisions other than reports.

2.4 The LGSCO also has jurisdiction in areas that do not directly relate to the Council's services, and its jurisdiction and operations are set out within the Local Government and Public Involvement in Health Act 2007, the Health Act 2009 and the Apprenticeship, Skills, Children and Learning Act 2009.

Relevant Government policy

2.5 The relevant Government policy is contained within the legislation cited in paragraph 2.1 above.

Relevant Council policy

2.6 The Council's Complaints Procedure for handling comments, representations, criticisms of policy and formal complaints can be found on the Council's website via the following link: <http://www.horsham.gov.uk/contact/comments-and-complaints>. It was decided that it should be removed from Part 5D of the Constitution at the meeting of the full Council on 25 February 2015.

3 Complaints

3.1 There were 26 complaints about Horsham District Council made to the LGSCO in 2017/18 which have been decided. This is an increase from the 14 complaints received and decided during 2016/17.

3.2 These LGSCO investigations resulted in:

- 13 complaints being closed without investigation after initial enquiries being made by the LGSCO
- 6 complaints being referred back to the Council for local resolution
- 3 complaints upheld
- 4 complaints not upheld

Closed without investigation

3.3 Details of these complaints are set out in the table below including the reason that the Ombudsman did not investigate them. There is a significant increase of complaints being closed after initial enquiries compared to the 6 received last year.

3.4

Complaint Reference	Department	Details
16018934	Revs & Bens	Mr T complains about the costs the Council claimed for issuing a summons to a council tax liability order hearing. The Ombudsman cannot investigate this complaint as it is outside his jurisdiction.

16019298	Planning & Development	The Ombudsman cannot investigate Mr D's complaint about the way the Council considered the noise reports submitted as part of his planning application. This is because Mr D has already used his right of appeal to a government minister.
17003804	Planning & Development	Mr X complains that the Council has unreasonably delayed issuing a five year supply plan for gypsies and travellers which has meant that the green belt has been eroded by the approval of planning applications for such use. The Ombudsman will not investigate this complaint because the injustice to Mr X is speculative and the Council is pursuing such a plan which is that which the Local Government Ombudsman would seek were he to be critical of the Council.
17005572	Planning & Development	Mr X complains about the Council's delay in determining a planning application for a development of dwellings near him. The Ombudsman will not investigate this complaint because there is no evidence of fault causing significant injustice.
17006168	Planning & Development	The Ombudsman will not investigate this complaint about planning permission granted for development near the complainant's home. It is unlikely he would find evidence of fault by the Council.
17007873	Legal Services	We will not investigate Mr Y's complaint about delay by the Council in dealing with his complaint that a councillor had failed to declare pecuniary interests as this does not cause Mr Y significant personal injustice.
17010359	Parking	Mr X complained about the Council's failure to refund his parking fee after he was unable to use the exit lift of a multi-storey car park. The Ombudsman will not investigate this complaint. There is insufficient evidence of injustice to warrant an investigation.
17010946	Planning & Development	The Ombudsman does not have grounds to investigate this complaint about the way the Council considered and decided a planning application. This because there is no sign that any fault by the Council caused the complainants an injustice to warrant us becoming involved.
17010956	Planning & Development	Mr X complains about the Council's decision to grant planning permission for a change of use for a local business. The Ombudsman will not investigate this complaint because there is no evidence of fault.
17011351	Revs & Bens	The Ombudsman will not investigate this council tax complaint. This is because there is insufficient evidence of fault by the Council and because the complainant could appeal to the Valuation Tribunal.
17012663	Housing	The Ombudsman will not investigate this complaint about the length of time the complainant has been waiting for permanent accommodation. This is because there is insufficient evidence of fault by the Council and because there were review rights the

		complainant could have used in 2015. In addition, part of the complaint is late.
17015516	Planning & Development	The Ombudsman will not investigate Ms B's complaint about a lack of action by the Council when she reported a breach of planning condition. Further consideration of the complaint is unlikely to find fault by the Council causing a significant personal injustice to Ms B.
17017398	Revs & Bens	The Ombudsman will not investigate this complaint about the conduct of Council officers who visited the complainant's home. It is unlikely he would find evidence of fault causing significant injustice to the complainant or that he could provide any worthwhile outcome for her. The Ombudsman cannot investigate a complaint about a housing benefit claim because the claimant has appealed.

Referred back for local resolution

- 3.5 The Local Government Act 1974 requires the LGSCO to give authorities an opportunity to try and resolve a complaint before they get involved. Usually the LGSCO will tell complainants how to complain to an authority. In many instances, authorities are successful in resolving the complaint and the complainant does not re-contact the LGSCO. This accounts for the six complaints being referred back for local resolution.

Not Upheld

- 3.6 Details of the 4 complaints that were not upheld are set out in the table below. Again there is a marked increase to the 1 complaint that was not upheld last year.

Complaint Reference	Department	Details
16012869	Planning & Development	The Council was not at fault for failing to take planning enforcement action over the number of visitor parking spaces provided on Mr X's road. There was no breach of planning control for the Council to enforce
16016926	Planning & Development	There was no fault by the Council in how it considered a non-material amendment application for a new-build property. The Council applied professional judgment to overlooking, privacy and amenity issues and the Ombudsman cannot intervene in the decision reached.
16017682	Housing	Ms X complains of poor treatment by the Council during her contact with it on various housing matters. The Ombudsman did not find fault by the Council.
17001738	Planning & Development	The Ombudsman exercised discretion not to further investigate Ms W's complaint against the Council because of insignificant injustice to her on her complaint that it failed to publish her representations in full on its website. The Council gave her the opportunity to remove points it decided were

3.7		inappropriate so it could publish it. Ms W sent unaltered copies of her representations to the planning committee members before they approved the application. Her complaint about the way the Council dealt with an earlier application was made too late.
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Upheld

3.8 Of the 3 complaints that were upheld 2 related to planning cases and 1 to Property & Facilities. The details of which are set out below. This is a slight increase from the 2 upheld complaints from 2016/17. However it should also be noted that the decision for the case 16016211 was disputed with the LGSCO but the decision was not revised.

Complaint Reference	Department	Details
16010649	Planning & Development	The Council properly considered whether to take enforcement action over alleged breaches of planning control at a restaurant. And it properly investigated Mr X's complaints about noise from the restaurant. But although it did not investigate Mr X's allegation that an acoustic report was flawed, this did not cause him any injustice.
16016211	Property & Facilities	There was no fault in the Council's decision to restrict Mr X's contact regarding his complaints. The Council's refusal to replace a damaged street sign did not cause him any injustice. And there was no fault in the Council's response to Mr X's report of a damaged lamp post.
17001774	Planning & Development	The Council has accepted it allowed an inaccurate statement within a Planning Officer's report, which is fault. However, that did not affect the decision making process or cause the complainants any injustice. The Council otherwise properly considered the planning application.

3.9 It is disappointing that case 16016211 was upheld given that the ombudsman's investigation did not actually determine whether replacement of the street sign was the responsibility of the Council or not. Despite evidence being provided by the Council to show it was the developer's responsibility this aspect was not investigated.

3.10 The LGSCO have published their annual report which shows a total of 19,215 complaints were received by them in 2017/18. The report also shows that of the cases that went to a full investigation 57% were upheld.

4 Next Steps

4.1 This report is based on the complaints that the LGSCO has investigated. It is intended that this report will assist with learning lessons and improve the Council's performance. Findings from the LGSCO are reviewed by the Feedback Officer with the relevant service manager to ensure improvements are made where necessary.

5 Outcome of Consultations

5.1 Not applicable.

6 Other Courses of Action Considered but Rejected

6.1 Not applicable.

7 Staffing Consequences

7.1 There are no staffing consequences resulting from this report.

8 Financial Consequences

8.1 Members should note that as the LGSCO can recommend compensation payments where it determines that complaints should be upheld, the Council must pay those compensation payments to the complainant(s). Only one such recommendation was made in 2016/17 for the amount of £400.

9 Other Consequences of the Proposed Action

9.1 Other consequences of the proposed action are set out in Appendix 1.

Appendix 1

Consequences of the Proposed Action

What are the risks associated with the proposal? Risk Assessment attached Yes/No	The report will assist the Council with learning lessons and improving its performance. No.
How will the proposal help to reduce Crime and Disorder?	This report does not directly affect the Council's duty to reduce crime and disorder.
How will the proposal help to promote Human Rights?	Responding to complaints effectively and learning from the process, together with the adoption of the ethical framework will enhance citizens' human rights in all their aspects.
What is the impact of the proposal on Equality and Diversity? Equalities Impact Assessment attached Yes/No/Not relevant	The Council is committed to the values of Equality and Diversity in relation to the provision of services and when serving residents. It has adopted a Single Equality Scheme as a public commitment of how the Council will meet the duties placed upon it by equality legislation. Having the right climate to accept and respond effectively to complaints against the Council will ensure the duties placed upon the Council by equality legislation are considered. No.
How will the proposal help to promote Sustainability?	This report does not directly help to promote sustainability.

