

Report to Standards Committee

11th September 2019

By the Feedback Officer

INFORMATION REPORT

Not exempt



The Local Government & Social Care Ombudsman Annual Review 2018/2019

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 2018/19.

Recommendations

The Committee is recommended to note the contents of the report and in particular:

- 1) The 50% reduction in complaints about the authority made to the LGSCO from last year.
- 2) That for the first time no complaints have been upheld by the LGSCO.

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 2018/19.

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.
- 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 13 complaints about Horsham District Council made to the LGSCO in 2018/19 which have been decided. This is a significant decrease from the 26 complaints received and decided during 2017/18.

3.2 These LGSCO investigations resulted in:

- 7 complaints being closed without investigation after initial enquiries being made by the LGSCO
- 5 complaints being referred back to the Council for local resolution
- 1 complaint not upheld
- **0 complaints being 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.

3.4

| Complaint Reference | Department | Details |
|---------------------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17014332 | Planning | Mr X complains that the Council has unreasonably granted planning permission for a cash machine near his house. The Ombudsman will not investigate this |

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|----------|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | complaint because there is no evidence of fault by the Council causing significant injustice. |
| 18009078 | Environmental Services | Mr X complained about the Council changing the collection point for his household waste and recycling. The Ombudsman should not exercise his discretion to investigate this complaint. This is because he has raised this matter outside the normal 12-month period for accepting complaints. We would not investigate where there is no evidence of fault by a council. |
| 18010739 | Corporate & Other Services | The Ombudsman will not investigate Mr X's complaint about the Council's handling of his insurance claim. The courts are better placed to determine whether the Council is liable for the damage to Mr X's car and the Council's delay in responding to his complaint has not caused significant injustice. |
| 18010437 | Corporate & Other Services | The Ombudsman will not investigate Mr X's complaint about the Council's decision to grant permission for a new residential development close to an existing hawthorn hedge. The complaint is late and the decision did not cause him injustice. We will not investigate Mr X's complaint about the Council's failure to maintain the hedge and footpath as it is unlikely we would find fault, that we could add to the Council's response or that we could achieve any worthwhile outcome for Mr X. |
| 18012201 | Planning | The Ombudsman will not investigate this complaint about the wording of a site notice advertising the complainant's planning application. The complainant has not suffered injustice that justifies the use of public funds to investigate. |
| 18003396 | Planning | The Ombudsman will not investigate this complaint because there is no evidence of fault by the Council causing significant injustice. |
| 18000734 | Corporate & Other Services | We cannot consider this complaint because it relates to an employment or personnel matter. Such matters are excluded from our jurisdiction under schedule 5/5A paragraph 4 of the Local Government Act 1974. |

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 five complaints being referred back for local resolution.

Not Upheld

- 3.6 Details of the complaint that was not upheld is set out below. This is a marked decrease to the 4 complaints that were not upheld last year.

| Complaint Reference | Department | Details |
|---------------------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18008548 | Housing | The Council's Housing Register and Nominations policy is not discriminatory. The Council acted in accordance with this policy. It sought medical information when required, and acted on the information it received. |

Upheld

3.7 For the first time ever no complaints against the authority have been upheld by the Ombudsman. This is a considerable achievement and an improvement on the 3 upheld complaints from last year. This is especially impressive given the introduction of Alternate Weekly Collections.

3.8 The LGSCO have published their annual report which shows a total of 34,119 complaints were received by them in 2018/19. The report also shows that of the cases that went to a full investigation 58% were upheld, a slight increase in the 57% from last year.

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. |

