

**The Local Government & Social Care Ombudsman Annual Review 2019/2020**

## **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 2019/20.

## **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.

<b>Background Papers:</b>	None
<b>Consultation:</b>	None
<b>Wards affected:</b>	All
<b>Contact:</b>	Richard Winch Feedback Officer Extension 5470

## **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 2019/20.

#### **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 15 complaints about Horsham District Council made to the LGSCO in 2019/20 which have been decided. This is a slight increase from the 13 complaints received and decided during 2018/19.

3.2 These LGSCO investigations resulted in:

- 7 complaints being closed without investigation after initial enquiries being made by the LGCSO
- 2 complaints being referred back to the Council for local resolution
- 4 complaints not upheld
- 2 complaints 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
19001175	Planning	Mr X complains about the Council's decision to grant planning permission for his neighbour's extension. The Ombudsman will not investigate the complaint because there is no evidence of fault by the Council

		and an investigation by the Ombudsman is unlikely to lead to a different outcome.
19001724	Environmental Health	The Ombudsman will not investigate this complaint about the way the Council responded to the complainant's reports of dog fouling, pigeon droppings and rodents. This is because the complainant has not suffered a significant personal injustice as a result of the alleged faults by the Council.
19002750	Revs & Bens	Mr X complains about the Council's use of bailiffs to enforce a council tax debt. The Ombudsman will not investigate this complaint because there is no evidence of fault by the Council.
19006344	Planning	The Ombudsman will not investigate how the Council dealt with a 'prior approval' application for a change of use of an agricultural building. It is unlikely he would find fault by the Council caused the complainant significant injustice.
19013058	Planning	The Ombudsman will not investigate Mr X's complaint about the Council's handling of his planning application. This is because it would be reasonable for Mr X to appeal to the Planning Inspectorate.
19013682	Waste	Mr B complains about confusing information given to him by the Council in connection with the disposal of waste shredded paper. The Ombudsman will not investigate the complaint as it is unlikely we can add to the investigation already carried out by the Council and an investigation is unlikely to lead to a different outcome.
19015442	Environmental Health	The Ombudsman will not investigate this complaint about a visit by an Environmental Health Officer to the complainant's home. He is unlikely to find evidence of fault by the Council and cannot provide the remedy the complainant seeks.

#### 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 two complaints being referred back for local resolution.

#### Not Upheld

- 3.6 Details of the 4 complaints that were not upheld are set out below.

Complaint Reference	Department	Details

18009029	Revs & Bens	Mr B complained about the way in which the Council dealt with a review and appeal regarding his housing benefit claim. We are unable to identify any fault in the Council's actions.
18016506	Housing	Mr X complains about the Council's handling of his housing application. Mr X said the Council offered unsuitable accommodation. The Ombudsman does not find fault with the Council's decision that the property was a suitable offer of accommodation.
18018177	Planning	Mrs X complained about the Council's decisions to allow residential development on land near her home. Mrs X said that, as a result of this, a vehicle turning point was lost and the Council can no longer collect waste from outside residents' homes. There was no fault in the way the Council made its decisions.
19004600	Democratic Services	Mrs B complains that a parish councillor breached her local parish council's Member's Code of Conduct and did not comply with the parish council's social media policy. The Ombudsman has found no fault in the way the Council investigated Mrs B's complaint and found that there was no breach of the Code.

### Upheld

3.7 Details of the 2 upheld complaints are set out below.

Complaint Reference	Department	Details
18014046	Planning	Mr X complained about the Council's failure to consult him on a planning application and its failure to take enforcement action. Mr X says that because of this, the way the land next to him is used causes disturbance to him. There was some fault in the way the Council made its decisions, but it did not cause a significant injustice to Mr X.
19010386	Planning	Mr X complained the Council failed to properly respond to his Purchase Notice, which requested it to buy his land, because it was incapable of beneficial use or development. There was some fault in the way the Council explained its decision, but this made no difference to the outcome because its decision was justified for other reasons.

3.8 The LGSCO have published their annual report which shows a total of 17,019 complaints were received by them in 2019/20. The report also shows that of the cases that went to a full investigation 61% were upheld, a slight increase on the 58% 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.

