

## Report to Standards Committee

8 September 2021

By the Head of Customer & Digital Services

### INFORMATION REPORT

Not exempt



## The Local Government & Social Care Ombudsman Annual Review 2020/2021

### 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 2020/21.

### 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

**Contact:** 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 2020/21.

#### **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 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 8 complaints about Horsham District Council made to the LGSCO in 2020/21 which have been decided. This is a significant decrease from the 15 complaints received and decided during 2019/20.

3.2 It should be noted that due to the pandemic the LGSCO paused their investigations and did not accept any new complaints between March and June 2020. This has resulted in fewer results being received than would normally be expected.

3.3 These LGSCO investigations resulted in:

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

### Closed without investigation

3.4 Details of these complaints are set out in the table below including the reason that the Ombudsman did not investigate them.

3.5

Complaint Reference	Department	Details
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.
19020867	Leisure & Culture	The Ombudsman will not investigate this complaint that the complainant was assaulted by a steward during a performance at a theatre run by the Council. This is because the Ombudsman cannot investigate allegations of crime and because there is insufficient evidence of fault by the Council. In addition, it is unlikely an investigation would lead to a different outcome.

#### Referred back for local resolution

- 3.6 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

- 3.7 Details of the complaint that was not upheld are set out below.

Complaint Reference	Department	Details
20006285	Planning	Mr X complained the Council failed to transfer a tree preservation order from a felled oak tree to a replacement sapling near his home. The Council was not at fault. The replacement sapling was planted under a condition of the Tree Preservation decision notice, which gave permission to fell the oak tree. The Council decided not to award the replacement sapling with a tree preservation order. There was no fault in that decision.

#### Upheld

- 3.8 This is the second time that no complaints have been upheld following the same result in 2018/19.
- 3.9 The LGSCO have published their annual report which shows a total of 11,830 complaints were received by them in 2020/21. The report also shows that of the cases that went to a full investigation 67% were upheld which is the highest ever recorded.

## **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 LGCSO 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). No such payments have been made since 2016.

## **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.

