

Report to Standards Committee

14 September 2022

By the Head of Legal & Democratic Services and
Monitoring Officer

INFORMATION REPORT

Not exempt



The Local Government & Social Care Ombudsman Annual Review 2021/2022

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 2021/22.

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 2021/22.

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 18 complaints about Horsham District Council made to the LGSCO in 2021/22 which have been decided. This is a significant increase from the 8 complaints received and decided during 2020/21.

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 which resulted in fewer results being received than normal.

3.3 These LGSCO investigations resulted in:

- 2 complaints upheld
- 2 complaints not upheld
- 11 complaints being closed without investigation after initial enquiries being made by the LGCSO
- 3 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
21012566	Revenues & Benefits	We will not investigate this complaint about the Council's decision not to award another

		Discretionary Housing Payment. This is because there is insufficient evidence of fault by the Council.
20014397	Planning & Development	Mr X complains about delay by the Council in determining his planning application. We will not investigate this complaint because he had a right of appeal to a Planning Inspector.
21004409	Housing	We will not investigate this complaint about the Council's decision that the complainant refused a suitable offer of accommodation. This is because there is insufficient evidence of fault by the Council.
21004768	Planning & Development	We will not investigate this complaint about the Council's handling of Ms X's planning application. This is because Ms X has appeal rights to the Planning Inspectorate which we would reasonably expect her to use.
21005051	Planning & Development	We will not investigate this complaint about the refusal of his planning application and his planning appeal. We cannot investigate a complaint about matters which have been subject to an appeal to a government minister.
21009459	Environmental Health	We will not investigate this complaint about how the Council responded to reports of noise nuisance. This is because the complaint does not meet the tests in our Assessment Code on how we decide which complaints to investigate. There is not enough evidence of fault by the Council to warrant an investigation.
21009921	Legal	We will not investigate this complaint about councillor conduct, and the Council's complaint response about this, as the injustice caused to Mrs X is not sufficient to warrant our involvement.
21010310	Planning & Development	We cannot investigate this complaint about how the complainant's planning appeals were dealt with. This is because we cannot investigate the actions of the Planning Inspectorate.
21010622	Planning & Development	We will not investigate this complaint about the way the Council has promoted its land as a development site for inclusion in the draft Local Plan. The personal injustice arising from the alleged fault is not involvement, and there is another body better placed to consider concerns about the content of the Local Plan.
21011498	Planning & Development	We will not investigate this complaint about a failure to declare a personal interest and what was said at a planning meeting. This is because the complaint does not meet the tests in our Assessment Code on how we decide which complaints to investigate. The complainant has appealed to the Planning Inspector.
21015845	Planning & Development	Mr X complains about the way the Council is considering the Local Plan. The Ombudsman will not

		investigate this complaint because the Plan has not been completed and so any injustice is speculative.
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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 three complaints being referred back for local resolution.

Not Upheld

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

Complaint Reference	Department	Details
20004318	Planning & Development	There is no fault in the way the Council considered a planning application for a community meeting facility next to Mr and Mrs X's home. There is also no fault in the way the Council conducted its planning committee meetings or reached its decision to stop enforcement action.
21009407	Housing	Mr X complained that the Council attempted to provide him with accommodation that was not fit for purpose. He said the Council's approach to re-housing him from unsuitable accommodation has caused him and his wife anxiety. I do not find the Council at fault.

Upheld

- 3.8 Details of the 2 complaints that were upheld are set out below.

Complaint Reference	Department	Details
20006238	Revenues & Benefits	Ms X complains about the Council's refusal to award her business rates relief and a business grant, causing her financial difficulties and distress. She is also unhappy it issued a reminder in error. We find no fault in the Council's decision making on rates relief and a grant. However, we find the Council at fault as it issued a reminder notice in error. We are satisfied with the action it has already taken to remedy this.
20012056	Housing	Mr X complained about the Council's failure to act when it became aware his temporary accommodation was unsuitable due to an inadequate water supply. He said this caused him an injustice as his medical condition meant the lack of water supply caused him severe difficulties. He was also upset at the way the Council interacted with him and considered his treatment might have been motivated by racism. The Council

		was at fault for failing to respond appropriately to the information Mr X provided about how water flow issues in his accommodation were impacting upon his condition. We have made recommendations to acknowledge the distress this caused. We have not found evidence of racist or other improper motivation.
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3.9 In the above Housing case the LGSCO required all housing staff to undergo refresher training on keeping the suitability of accommodation under review when a change of circumstances is reported which was carried out within 3 months of the decision. An offer of compensation for £500 was also offered within 1 month of the decision and paid to the complainant.

3.10 The LGSCO have published their annual report which shows a total of 15,826 complaints were received by them in 2021/22. The report also shows that of the cases that went to a full investigation 66% 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). A £500 payment was made as set out above.

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.

