

Report to Standards Committee

29 November 2023

By the Feedback Officer

INFORMATION REPORT

Not exempt



The Local Government & Social Care Ombudsman Annual Review 2022/2023

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 2022/23.

Recommendations

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

Reasons for Recommendations

- i) To update members in relation to the complaints position for 2022/2023.

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 2022/23.

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 LGSO is the independent body for investigating complaints made against public bodies where it is alleged that there has been maladministration causing injustice.
- 2.2 The LGSO, its power to investigate and its jurisdiction are governed by three primary pieces of legislation:
- (i) The Local Government Act 1974 (LGA 1974);
 - (ii) The Regulatory Reform (Collaboration etc between Ombudsmen) Order 2007 (SI 2007/1889); and
 - (iii) The Local Government and Public Involvement in Health Act 2007.
- 2.3 The LGSO has the power to investigate complaints where there has been (i) maladministration causing injustice, (ii) a failure to provide a service that it was the public body's function to provide, and, (iii) there was a total failure to provide such service.
- 2.4 There is no specific definition of maladministration but it can include cases where a public body has taken, or has failed to take, action (section 26(1) LGA 1974). Injustice can include the loss or a right or service which the complainant is legitimately entitled to and costs associated with pursuing a complaint.

- 2.5 The LGSCO is only allowed to investigate the procedure behind the decision-making. Once maladministration has been established, it must be confirmed that it has led to personal injustice for the complainant (section 26A(a), LGA 1974).
- 2.6 Complaints to the LGSO should be made within 12 months of the action complained of (section 26B(2) LGA 1974 (even though the LGSO has discretion to investigate complaints outside of this time limit (section 26B(3) LGA 1974)).
- 2.7 The LGSCO has power to make recommendations to a public body following a complaint and how to improve its services and to put things right for the complainant. However, these recommendations are not mandatory and a public body does not have to accept or follow them.
- 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.

Relevant Government policy

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

Relevant Council policy

- 2.9 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 10 complaints about Horsham District Council made to the LGSCO in 2022/23 which have been decided. This is a significant decrease from the 18 complaints received and decided during 2021/22.
- 3.2 These LGSCO investigations resulted in:
- No complaints being upheld
 - No complaints not upheld
 - 8 complaints being closed without investigation after initial enquiries being made by the LGCSO
 - 1 complaint being referred back to the Council for local resolution
 - 1 complaint incomplete / invalid

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
21017414	Planning & Development	We will not investigate this complaint about the Council's consideration of Mr X's proposals to develop a plot of land he owns. There is insufficient evidence of fault which would warrant an investigation.
21017991	Parking	We will not investigate Mr X's complaint about the Council issuing him with penalty charge notices. Mr X had a right of appeal to the Traffic Penalty Tribunal for each ticket, and it would have been reasonable for him to use this.
22002141	Housing	We will not investigate this complaint about the suitability of temporary accommodation provided by the Council. It was reasonable for Mrs X to seek a review and appeal to the courts to challenge the Council's decision.
22004555	Planning & Development	We will not investigate this complaint about the Council's handling of planning matters in relation to a property Mr X bought. This because we are unlikely to find evidence of fault by the Council.
22005640	Planning & Development	We will not investigate this complaint about how the Council dealt with the complainant's planning applications. This is because the complainants have appealed to the Planning Inspector. Parts of the complaint are also late.
22008068	Planning & Development	We will not investigate this complaint about the Council's handling of the complainant's discharge of condition and retrospective planning applications. This is because the complaint does not meet the tests in our Assessment Code on how we decide which complaints to investigate. It is reasonable to expect the complainant to have appealed to the Planning Inspectorate against any delays in determining his applications, and he has already appealed against the imposition of Community Infrastructure Levy surcharges.
22009611	Planning & Development	We will not investigate this complaint about how the Council dealt with the Complainant's planning application. This is because the complainant had the right to appeal to the Planning Inspector.
22014645	Planning & Development	We will not investigate this complaint about how the Council dealt with the complainant's planning application. This is because the complainant had the right to appeal to the Planning Inspector. The Information Commissioner's Office is best placed to deal with the complainant's concerns about how the Council dealt with his request for information.

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 single complaint being referred back for local resolution.

Incomplete / Invalid

- 3.6 In the annual results supplied by the LGSCO they have listed a single complaint as incomplete stating that it related to a housing case but the complainant did not provide sufficient information for them to proceed. No other details were provided so we are unable to identify the case or if it had already been through our internal complaints procedure.
- 3.7 The LGSCO have published their annual report which shows a total of 15,488 complaint enquiries were received by them in 2022/23. The report also shows that of the cases that went to a full investigation 74% were upheld which is a 7% increase from last year. However this has been impacted by the decision not to investigate the borderline cases reported to them.

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). No such awards were made in this reporting year.

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.

