

Report to Standards Committee
30th November 2016
By the Customer Services Manager
INFORMATION REPORT
Not exempt



**Horsham
District
Council**

The Local Government Ombudsman Update 2016-2017

Executive Summary

This report is to update Members on the number of complaints and nature of complaints received by the Council that were made to the Local Government Ombudsman (the "LGO") in quarters one and two 2016-17.

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: [SCD 12] - LGO Focus Report

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 current position of complaints made to the LGO.

Background/Actions taken to date

- 1.2 The LGO requires complainants to exhaust the Council's internal complaints procedure before it will investigate a complaint. Where the LGO 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, and log such complaints as "premature complaints". In urgent circumstances, however, the LGO will inform the Council that it has opted to investigate a complaint without referral to the Council's internal complaints procedure.
- 1.3 The LGO 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 Complaints and Feedback Officer are considered by the Finance & Performance Working Group on a quarterly basis.

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 LGO:
 - 2.2.1 To investigate complaints against councils and some other authorities; and
 - 2.2.2 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 LGO's role:
 - 2.3.1 The LGO may look at service failure in addition to maladministration;
 - 2.3.2 The LGO 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;
 - 2.3.3 Complaints about the procurement of goods and services are within its jurisdiction;
 - 2.3.4 The LGO may issue a 'statement of reasons' instead of a report if they are satisfied with the council's proposals to remedy its failures;

2.3.5 The LGO may publish decisions other than reports; and

2.3.6 Complaints no longer need to be in writing.

- 2.4 The LGO 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 now 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 have been four complaints about Horsham District Council made to the LGO in quarters one and two of 2016-17. Anonymised details of these complaints can be found in Appendix two.
- 3.2 Three of the four complaints are with regards to planning (two of which await response from the LGO) and one was referred back for local resolution. The Local Government Act 1974 requires the LGO to give authorities an opportunity to try and resolve a complaint before they get involved. Usually the LGO 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 LGO.
- 3.3 The complaint referring to Environmental Services & Public Protection & Regulation was from a customer complaining that the Council failed to deal with her report of a litter dropping offence in a timely manner and failed to get all the evidence. The Ombudsman investigated these claims but confirmed the expectation for the Council to have appropriate processes in place to deal with cases like this one. More time has elapsed since the original incident and the Council's solicitor supports the view there is not now a reasonable chance of success if the Council tried to prosecute.
- 3.4 In 1974, the first year of the Local Government Ombudsman it received more complaints about planning than any other area. Over forty years later planning is still one of the most complained about matters. In response to requests from local authorities, councillors and MPs to share more information from its investigations the LGO produced a focus report about learning lessons from planning complaints. The report published in December 2014 called - ***Not in my back yard: Local people and the planning process [SCD 12]***.

The LGO indicated that the main aims of the report are to

- Help local people understand more about the planning process and the impact they can have on planning decisions
- Help explain the role and powers of the LGO in providing redress and supporting independent scrutiny of decisions
- Encourage greater transparency in the way councils reach decisions through sharing the lessons from complaints.

The middle section of the report details the personal stories of complainants and the redress they were given. The final part of the report covers feedback from complainants and includes a check list of good practice for councils to follow.

4 Next Steps

- 4.1 This report is based on the complaints that the LGO has investigated. It is intended that this report will assist with learning lessons and improve the Council's performance. In its Annual Review letter 2016 the LGO recognised that that the total number of complaints will not, by itself, give a clear picture of how well those complaints are being responded to. So in the coming year they will be gathering more comprehensive information about the way complaints are being remedied. This will assist the Council in improving its performance in the future.

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 LGO 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 recommendations have been made in 2016-17 to date.

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.

Appendix two – Ombudsman Complaints Q1 & Q2 2016-17

LGO Case ID	Authority	Category Group	Received Date	Overall decision date	Annual Letter Decision Type
16001050	Horsham DC	Planning & Development	04/Jul/2016		Comment awaited from LGO
16006210	Horsham DC	Planning & Development	01/Aug/2016		Comment awaited from LGO
16006544	Horsham DC	Planning & Development	05/Aug/2016	05/Aug/2016	<p>Referred back for local resolution.</p> <p>The Local Government Act 1974 requires LGO to give authorities an opportunity to try and resolve a complaint before we will get involved. Usually the LGO tell complainants how to complain to an authority and ask them to contact it directly. In many instances, authorities are successful in resolving the complaint and the complainant does not re-contact the LGO.</p>
16007215	Horsham DC	Environmental Services & Public Protection & Regulation (Littering)	23/Aug/2016	14/Sep/2016	<p>The Ombudsman decided not to investigate this complaint because their involvement cannot be justified when it is very unlikely to have any effect on the outcome of this case.</p>

