

The Local Government & Social Care Ombudsman Update 2016/2017

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 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: 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 2016/17.

Background/Actions taken to date

- 1.2 On 6 June 2017 the Local Government Ombudsman was renamed as the Local Government & Social Care Ombudsman to make its full remit clearer for users.
- 1.3 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's internal complaints procedure.
- 1.4 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.
- 1.5 Details of all complaints, compliments and suggestions advised to the Feedback Officer are 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 14 complaints about Horsham District Council made to the LGSCO in 2016/17 which have now been decided. A table of these complaints is included at appendix 2. These LGSCO investigations resulted in:

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

Closed without investigation

3.2 When a complaint is lodged with the LGCSO the authority is not always made aware of the complaint and initial enquires can be made with no contact from the LGCSO. It is therefore not always possible to identify the complaints on the Councils systems and of the 6 complaints closed after initial enquiries 3 have been identified. These complaints relate to an environmental case, a housing case and a planning matter.

3.3 The environmental complaint related to the decision of the Council not to prosecute an allegation of littering due to insufficient evidence. The LGCSO decided not to investigate as their involvement could not be justified when it was very unlikely to have any effect on the outcome of the case.

- 3.4 The Housing case was an allegation that the Council had not provided adequate support to a customer. The LGSCO found that the customer had not notified the Council for a year that the property provided was not suitable and when we had been notified that the customer had been rehoused. There was therefore no injustice to investigate.
- 3.5 The planning matter related to 3 issues: conditions the Council attached when it approved an application in 2014, that the Council required another planning application because he started development before discharging pre-commencement conditions and that the Council did not remove conditions when it approved his second application. The LGSCO found that as the complainant had the right of appeal to the planning inspectorate or the courts and could have avoided the issues he complained of by discharging the pre-commencement conditions that no further action was necessary.

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.

Upheld

- 3.7 Of the 2 complaints that were upheld one related to a Council tax matter and the other related to a Housing matter. The Council tax complaint was from a customer who felt a housing officer misrepresented her intentions when setting up a repayment plan over 12 months for council tax arrears. The LGSCO found that the Council should not have taken the instruction to pay council tax arrears for one account to apply to more than the one account intended. It also found that there was not any significant injustice as a result.
- 3.8 The complaint referring to the housing matter concerned a customer who was on the housing register being offered a property for the second time. The council were then contacted by a housing association and advised that she had declined the offer. The customer was taken off the housing register as a result. The LGSCO found that the Council was at fault for relying on the information provided by the housing association and not confirming this with the customer direct as the customer missed the opportunity to accept the offer and was also removed from the housing register. To remedy the injustice the Council agreed to apologise to the customer, pay £400 to recognise her lost opportunity to move and the distress caused and to reinstate her on the housing register.

Not Upheld

- 3.9 The last complaint that was not upheld related to a planning matter. The complainant alleged that the Council made a planning decision based on inaccurate information and it ignored some of his objections. The LGSCO found that this was not the case and was satisfied by the Council's actions.

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

| | |
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| 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 2 – Ombudsman Complaints – 2016/17

| Column1 | Column2 | Column3 | Column4 | Column5 |
|----------------------|------------------------|----------------------|------------------------------------|--|
| LGSCO Case ID | Department | Decision Date | Decision | Remedy |
| 15008751 | Benefits & Tax | 15-Jul-16 | Upheld | Null |
| 15018987 | Housing | 07-Sep-16 | Upheld | Apology, Financial Redress of £400 & Miss X placed back onto the housing register. |
| 16001050 | Planning & Development | 03-Nov-16 | Not Upheld | Null |
| 16006210 | Planning & Development | 21-Feb-17 | Closed after initial enquiries | Null |
| 16006544 | Planning & Development | 05-Aug-16 | Referred back for local resolution | Null |
| 16007215 | Environmental Services | 14-Sep-16 | Closed after initial enquiries | Null |
| 16010637 | Housing | 18-Nov-16 | Closed after initial enquiries | Null |
| 16012351 | Highways & Transport | 07-Dec-16 | Referred back for local resolution | Null |
| 16013799 | Benefits & Tax | 26-Jan-17 | Closed after initial enquiries | Null |
| 16014222 | Housing | 03-Jan-17 | Referred back for local resolution | Null |
| 16015055 | Benefits & Tax | 27-Feb-17 | Closed after initial enquiries | Null |
| 16017044 | Housing | 20-Feb-17 | Referred back for local resolution | Null |
| 16017157 | Housing | 06-Mar-17 | Referred back for local resolution | Null |
| 16017292 | Benefits & Tax | 06-Mar-17 | Closed after initial enquiries | Null |