

**CABINET
7 DECEMBER 2021**

REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

**Responsible Cabinet Members -
Councillor Scott Durham, Resources Portfolio
Councillor Lorraine Tostevin, Adults Portfolio
Councillor Jon Clarke, Children and Young People Portfolio
Councilor Kevin Nicholson, Health and Housing Portfolio**

**Responsible Directors -
Ian Williams, Chief Executive
Elizabeth Davison, Group Director of Operations
James Stroyan, Group Director of People
Dave Winstanley, Group Director of Services**

SUMMARY REPORT

Purpose of the Report

1. To provide Members with an update of the outcome of cases which have been determined by the Local Government and Social Care Ombudsman (LGSCO) and the Housing Ombudsman Service (HOS) since the preparation of the previous report to Cabinet on 7 September 2021.

Summary

2. This report sets out in abbreviated form the decisions reached by the LGSCO and the HOS between 1 April and 30 September 2021 and outlines actions taken as a result.

Recommendation

3. It is recommended that the contents of the report be noted.

Reasons

4. The recommendation is supported by the following reasons :-
 - (a) It is important that Members are aware of the outcome of complaints made to the LGSCO and the HOS in respect of the Council's activities.
 - (b) The contents of this report do not suggest that further action, other than detailed in the report, is required.

**Ian Williams
Chief Executive**

Background Papers

Note: Correspondence with the LGSCO and HOS is treated as confidential to preserve anonymity of complainants.

Lee Downey- Extension 5451

| | |
|----------------------------------|---|
| S17 Crime and Disorder | This report is for information to members and requires no decision. Therefore there are no issues in relation to Crime and Disorder. |
| Health and Well Being | This report is for information to members and requires no decision. Therefore there are no issues in relation to Health and Well Being. |
| Carbon Impact and Climate Change | This report is for information to members and requires no decision. Therefore there are no issues in relation to Carbon Impact and Climate Change |
| Diversity | This report is for information to members and requires no decision. Therefore there are no issues in relation to Diversity. |
| Wards Affected | This report affects all wards equally. |
| Groups Affected | This report is for information to members and requires no decision. Therefore there is no impact on any particular group. |
| Budget and Policy Framework | This report does not recommend any changes to the Budget or Policy Framework. |
| Key Decision | This is not a Key Decision. |
| Urgent Decision | This is not an Urgent Decision. |
| Council Plan | This report contributes to all the priorities in the Council Plan. |
| Efficiency | Efficiency issues are highlighted through complaints. |

MAIN REPORT

Background

5. Cabinet has previously resolved that they would consider reports on the outcome of cases referred to the LGSCO and HOS during the Municipal Year on a bi-annual basis.
6. The opportunity is normally taken to analyse the areas of the Council's functions where complaints have arisen. It is appropriate to do that in order to establish whether there is any pattern to complaints received or whether there is a particular Directorate affected or a type of complaint which is prevalent. If there were a significant number of cases in any one particular area, that might indicate a problem which the Council would seek to address.

Information

7. Between 1 April 2021 and 30 September 2021, 7 cases were the subject of decision by the LGSCO.
8. Between 1 April 2021 and 30 September 2021, 0 cases were the subject of decision by the HOS.
9. The outcome of cases on which the LGSCO reached a view is as follows:

| LGSCO Findings | 2021/22 | 2020/21 | 2019/20 | 2018/19 |
|---|---------|---------|---------|---------|
| Closed after initial enquiries: no further action | 2 | 4 | 7 | 10 |
| Closed after initial enquiries: out of jurisdiction | 1 | 1 | 4 | 2 |
| Not upheld: no maladministration | 0 | 2 | 1 | 3 |
| Premature | 0 | 0 | 0 | 4 |
| Upheld: Maladministration and Injustice | 3 | 2 | 6 | 10 |
| Upheld: Maladministration, No Injustice | 0 | 1 | 0 | 0 |
| Upheld: maladministration and injustice - no further action, satisfactory remedy provided by the organisation | 1 | 0 | 0 | 0 |
| Upheld: not investigated - injustice remedied during Body in Jurisdiction's complaint process | 0 | 1 | 0 | 0 |

10. The outcome of cases on which the HOS reached a view is as follows:

| LGSCO Findings | 2021/22 | 2020/21 | 2019/20 | 2018/19 |
|----------------------|---------|---------|---------|---------|
| No Maladministration | 0 | 0 | 1 | 2 |
| Service Failure | 0 | 1 | 0 | 2 |

Local Government and Social Care Ombudsman (LGSCO)

Closed after initial enquiries: no further action

11. The first of these complaints concerned the actions of the Council's building control officers. The LGSCO decided they would not investigate this complaint because it was unlikely an investigation would add to the Council's response and the complainant had not been caused any personal injustice by the matter.
12. The second of these concerned the Council's Children's Services actions regarding the placement of three children with the complainant. The LGSCO decided they would not investigate this complaint because they would be unable to add anything significant to the investigation the Council had already carried out.

Closed after initial enquiries: out of jurisdiction

13. This complaint concerned maintenance work to Council properties, adjacent to the complainant's property. The LGSCO decided they could not investigate because they do not have the power to investigate complaints about the management of social housing by councils.

Upheld: Maladministration Injustice

14. The first of these complaints concerned the Council's Financial Assessments Team's handling of a direct payment in relation to adult social care services. The LGSCO concluded the Council was at fault for failing to monitor, audit and provide support to the complainant on their spending of the direct payment and that it was at fault for failing to keep adequate records. The Council agreed to apologise for the distress and uncertainty this caused and reduce the outstanding debt owed.
15. The second of these complaints concerned the Council's Adult Services reducing the individual's support package without proper consideration of their needs. The LGSCO concluded the Council fettered its discretion in deciding to refuse some elements of support and unlawfully applied a blanket policy in the allocation of domestic support hours.
16. The third of these concerned the Council's failure to carry out cleansing of the lane next to the complainant's home and the fact it confiscated the complainant's bin without notice, delayed in returning the bin and delayed in responding to the complaint. The LGSCO concluded this caused the complainant distress, led to them having to dispose of their own refuse and led to them going to time and trouble to pursue their complaint. The Council agreed to apologise, make a payment to the complainant and introduce a monitoring schedule to ensure the lane is cleansed fortnightly.

Upheld: maladministration and injustice - no further action, satisfactory remedy provided by the organisation

17. This complaint concerned the Council's Financial Assessment Team's handing of a direct payment in relation to adult social care services. The LGSCO concluded there was evidence of a delay by the Council in sending an invoice, however, the Council had already offered a satisfactory remedy by offering a payment plan, an apology and £100 compensation. The

LGSCO also concluded there was no fault on the Council's part in relation to the calculation of invoices or in asking for direct payments to be repaid in accordance with its policy.

Analysis

18. Between 1 April 2021 and 30 September 2021 the Council received three Upheld: Maladministration Injustice decisions from the LGSCO, compared to one for the same period in 2020/21. The LGSCO ceased investigating complaints between 26 March 2020 to 29 June 2020 due to COVID-19.
19. The organisational learning identified as a result of these complaints should ensure there is not a re-occurrence.

Outcome of Consultation

20. The issues contained within this report do not require formal consultation.