

**CABINET
6 DECEMBER 2022**

COMPLAINTS MADE TO LOCAL GOVERNMENT OMBUDSMAN

**Responsible Cabinet Member -
Councillor Scott Durham, Resources Portfolio**

**Responsible Director -
Elizabeth Davison, Group Director of Operations**

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 6 September 2022.

Summary

2. This report sets out in abbreviated form the decisions reached by the LGSCO and the HOS between 1 April 2022 and 30 September 2022 and outlines actions taken as a result.

Recommendation

3. It is recommended that the contents of the report be noted.
4. It is recommended that the amendments to the Council's Travel and Transport Assistance Policy and SEND Travel Assistance Policy detailed in paragraph 24 be noted.

Reasons

5. The recommendations are 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) To comply with the recommendation made by the Local Government and Social Care Ombudsman and ensure the Council's Travel and Transport Assistance Policy and SEND Travel Assistance Policy are consistent with government guidance.

- (c) The contents of this report do not suggest that further action, other than detailed in the report, is required.

Elizabeth Davison
Group Director of Operations

Background Papers

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 Wellbeing	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.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers.

MAIN REPORT

Background

6. 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.
7. 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 and Analysis

8. Between 1 April 2022 and 30 September 2022, the LGSCO determined 15 complaints.
9. Between 1 April 2022 and 30 September 2022, the HOS determined 0 complaints.
10. The LGSCO has recently updated the decisions they use. As a result it is not possible to make a direct comparison with previous years. However, the new decisions in ***bold/italics*** in the table below are broadly comparable to those previous decisions in *italics* in the table below.

11. The outcome of cases on which the LGSCO reached a decision is shown in the table below.

LGSCO Findings	No. of cases 2022/23 (April – Sept)	No. of cases 2021/22	No. of cases 2020/21	No. of cases 2019/20
Closed after initial enquiries: no further action	7	9	4	7
Closed after initial enquiries: out of jurisdiction	2	1	1	2
<i>Not upheld: no fault</i>	1	N/A	N/A	N/A
<i>Not upheld: no maladministration</i>	1	1	2	1
Premature	1	0	0	0
<i>Upheld: fault and injustice</i>	2	N/A	N/A	N/A
<i>Upheld: Maladministration and Injustice</i>	0	4	2	6
Upheld: Maladministration, No Injustice	0	0	1	0
<i>Upheld: fault and injustice – no further action, organisation already remedied</i>	1	N/A	N/A	N/A
<i>Upheld: maladministration and injustice - no further action, satisfactory remedy provided by the org</i>	0	1	0	0
Upheld: not investigated - injustice remedied during Body in Jurisdiction's complaint process	0	0	1	0

Local Government and Social Care Ombudsman (LGSCO)

Closed after initial enquiries: no further action

12. In this case the LGSCO concluded, they would not investigate the complaint about how the Adult Contact Team had processed the complainant's personal data because it would be more appropriate for the Information Commissioner's Office to do so.
13. In response to an Adult Social Care Complaint, about financial issues and the assessment process, the LGSCO decided not to investigate because the Council had remedied the injustice caused by the fault. The LGSCO concluded a further investigation could not add to the Council's responses or make a different finding of the kind the complainant wanted.
14. In response to a complaint for Housing Benefit & Council Tax, regarding eligibility for the hardship support fund, the LGSCO concluded there was insufficient evidence of fault by the Council.
15. In response to a complaint about the Mental Health Team, allegedly completing an inaccurate assessment of the individual's care and support needs and failing to complete Section 42 safeguarding enquiries, the LGSCO decided there was insufficient evidence of fault and that further investigation would not achieve a different outcome.

16. In response to a complaint for the Ongoing Assessment and Intervention Team (OAIT), the LGSCO decided they would not investigate the complaint about how the Council managed the complainant's care and support needs because their investigation could not add to the Council's investigation and because it would not lead to a different outcome.
17. In response to a complaint for Parks, Countryside and Allotments, the LGSCO decided they would not investigate a complaint about the Council giving notice to end the complainant's tenancy for their stables, as they could not achieve the outcome the complainant wanted.
18. In response to a complaint regarding the Safeguarding Partnership, the LGSCO concluded they would not investigate the complaint about care provided to the complainant's late spouse, because further investigation could not add to the responses provided by the Care Provider and the Council.

Closed after initial enquiries: out of jurisdiction

19. In response to a complaint about Council Tax, the LGSCO concluded they would not investigate the complaint because there was insufficient evidence of fault by the Council. In addition, they noted the complainant could appeal to the Valuation Tribunal or contact the Valuation Office.
20. In response to a complaint for the Adult Social Care Financial Assessment Team, the LGSCO concluded they would not investigate the complaint about the Council reducing the complainant's Direct Payments, as there was no good reason for the delay in the complainant making the complaint.

Not upheld: no fault

21. In response to a complaint about the Council's alleged poor handling of the COVID-19 grant schemes, resulting in the complainant missing out on business support worth £40,000 and being put to time and trouble in chasing the Council, the LGSCO found there was no fault on the Council's part.

Not upheld: no maladministration

22. Following a complaint for Highway Network Management, the LGSCO found no fault on the Council's part in allegedly failing to carry out proper monitoring of high speeds on a stretch of road near the complainant's home.

Premature

23. This complaint concerned a delay in the Council responding to subject access request i.e. a request from an individual to access their personal data under the UK General Data Protection Regulations (GDPR).

Upheld: fault and injustice

24. In response to a complaint about how the Council dealt with an appeal for home to school transport, the LGSCO concluded there was fault by the Council as the appeal panel did not consider the Council's discretion. The LGSCO also found fault in the Council's policies on home to school transport. The Council agreed to review the appeal panel's decision and its policies. The Assistant Director of Education and Inclusion subsequently made a delegated [decision](#) in relation to reviewing the policies, in consultation with the portfolio lead. This was because the amendments were of a minor nature and as a result of the limited time the Council had to make the amendments over the period Cabinet was in recess. The amendments to the Travel and Transport Assistance Policy clarified the rights of members of the public to attend appeal panels whether virtually or face-to-face in line with government guidance and including a reference to the Council's discretion to award transport outside the main terms of the policy. The amendment to the SEND Travel Assistance Policy clarified exactly who it covers and how it links with the statutory qualifying conditions.
25. In response to a complaint about Children's Services, the LGSCO concluded the Council was at fault for failing properly consider the findings and recommendations of an independent investigation carried out under the children's statutory complaints process. To address the injustice arising from the fault identified, the Council agreed to apologise and pay the complainant £1, 200 for the distress, frustration and uncertainty identified and the time and trouble of having to refer the matter to the LGSCO. The Council also agreed to properly implement a recommendation of the Stage 3 Review Panel, reminded staff that case recording and other record keeping must provide accurate information of processes followed and remind staff to adhere to the timescales of the statutory complaints process.

Upheld: fault and injustice – no further action, organisation already remedied

26. In response to a complaint about the Council failing to consider a complaint in accordance with its Children statutory complaints procedure, the LGSCO found the Council was at fault for failing to complete its Stage 2 investigation within the maximum 65 working days allowed under the Regulations. The Council agreed to pay the complainant £175 and respond to the Stage 2 complaint within one month.
27. The organisational learning identified as a result of these complaints should ensure there is not a re-occurrence.

Outcome of Consultation

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