

CABINET
10 SEPTEMBER 2024

**COMPLAINTS MADE TO THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN
AND THE HOUSING OMBUDSMAN SERVICE**

**Responsible Cabinet Member –
Councillor Stephen Harker, Leader and all Cabinet Members**

**Responsible Director -
Chief Officers Executive**

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 5 December 2023.
2. To provide Members with the Annual Review Letter of the LGSCO (**Appendix 1**).
3. To agree a change to the frequency information is provided to Members.

Summary

4. This report sets out in abbreviated form the decisions reached by the LGSCO and the HOS between 1 April 2023 and 31 March 2024 and outlines actions taken as a result. It seeks to identify trends and any further organisational learning to improve services provision.
5. This report also provides Members with a copy of the Annual Letter of the LGSCO, which contains information on the Council's performance in relation to complaints.
6. It is proposed this report be considered annually by Members, in conjunction with the Local Government and Social Care Ombudsman's Annual Letter and annual complaints reports. It is also proposed that upheld decisions are circulated to the relevant portfolio holder at the point the decision is received by the Council.

Recommendations

7. It is recommended that:-
 - (a) The contents of the report be noted.
 - (b) The revised frequency be agreed.

Reasons

8. 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) The revised frequency will both enable Members to retain proper oversight of the outcome of complaints made to the LGSCO and the HOS at a strategic level, while providing more timely information about issues affecting services within their portfolio.

Chief Officers Executive

Background Papers

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

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| Council Plan | Learning from complaints enables the Council to improve the services it provides. This will help in progressing the delivery of the priorities that are set out in the Council Plan for the economy, homes, living well, children and young people communities and the local environment |
| Addressing inequalities | Complaint investigations have identified the need to complete an equality impact assessment, to ensure the Council has given due regard to protected characteristics when providing services. Regular information is also provided to the Equalities Advisors Group and the Chief Officer's Board. |
| Tackling Climate Change | There are no specific recommendations contained within the attached reports concerning Carbon Reduction. |
| Efficient and effective use of resources | This report has no impact on the Council's Efficiency Programme. |
| Health and Wellbeing | Learning from complaints enables the Council to improve the services it provides in relation to Public Health, Leisure and Adult Services, including commissioned services. |
| 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 |
| 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. |
| Impact on Looked After Children and Care Leavers | This report has no impact on Looked After Children or Care Leavers |

MAIN REPORT

Background

9. 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.
10. The LGSCO encourages officers to share the annual letter with colleagues and elected members as the information can provide valuable insights into service areas, early warning signs of problems and is a key source of information for governance, audit, risk and scrutiny functions.
11. The current timetable means the six monthly report is considered at December's Cabinet, just two months after the annual report. We are proposing moving to annual reporting of LGSCO and HOS decisions, to bring this report in line with the reporting of the Local Government and Social Care Ombudsman's Annual Review letter and the Complaints, Compliments and Comments Annual Reports for Adult Social Care, Children's Social Care, Corporate, Housing and Public Health complaints which are considered at September's Cabinet each year. We are also proposing providing copies of upheld decisions to the relevant portfolio holder in real time. We believe this approach will both enable Members to retain proper oversight of the outcome of complaints made to the LGSCO and the HOS at a strategic level, while providing more timely information about issues affecting services within their portfolio.

Information and Analysis

12. Between 1 April 2023 and 31 March 2024, the LGSCO notified the Council it had determined 26 complaints.
13. Between 1 April 2023 and 31 March 2024, the HOS notified the Council it had determined two complaints.
14. The LGSCO has 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.

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

| LGSCO Findings | No. of cases 2023/24 | No. of cases 2022/23 | No. of cases 2021/22 | No. of cases 2020/21 |
|---|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| Closed after initial enquiries: no further action | 11 | 9 | 9 | 4 |
| Closed after initial enquiries: out of jurisdiction | 5 | 4 | 1 | 1 |
| Not upheld: no fault | 0 | 1 | N/A | N/A |
| Not upheld: No further action | 1 | N/A | N/A | N/A |
| <i>Not upheld: no maladministration</i> | 0 | 1 | 1 | 2 |
| Premature | 1 | N/A | N/A | N/A |
| Upheld: fault and injustice | 3 | 4 | N/A | N/A |
| <i>Upheld: Maladministration and Injustice</i> | 0 | 0 | 4 | 2 |
| Upheld: Maladministration, No Injustice | 0 | 0 | 0 | 1 |
| Upheld: fault and injustice – no further action, organisation already remedied | 2 | 1 | N/A | N/A |
| <i>Upheld: maladministration and injustice - no further action, satisfactory remedy provided by the org</i> | 0 | 0 | 1 | 0 |
| Upheld: no further action, organisation already remedied | 3 | 1 | N/A | N/A |
| <i>Upheld: not investigated - injustice remedied during Body in Jurisdiction's complaint process</i> | 0 | 0 | 0 | 1 |

16. The outcome of cases on which the HOS reached a decision is shown in the table below:

| HOS Findings | No. of cases 2023/24 | No. of cases 2022/23 | No. of cases 2021/22 | No. of cases 2020/21 |
|----------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| Maladministration | 2 | 0 | 0 | 0 |
| No Maladministration | 0 | 0 | 0 | 0 |
| Service Failure | 0 | 0 | 2 | 1 |

17. A summary of the findings in relation to those cases which were upheld is provided below.

Local Government and Social Care Ombudsman (LGSCO)

Upheld: fault and injustice

18. Mrs X complained about how the Council dealt with her adult child's, Mr Y, financial assessment and its consideration of his disability related expenditure request. She also complained about the Council's poor communication with her and how it dealt with her complaint. Mrs X says the Council's failings caused injustice to her and Mr Y. There were faults by the Council which caused Mr Y and Mrs X injustice. The Council agreed to apologise in writing; pay Mrs X an additional £100 to acknowledge the distress, frustration and uncertainty caused to her by the Council's delay in dealing with and making a decision

about Mr Y's disability related expenditure request and the delay in dealing with her complaint; pay Mr Y £150 to acknowledge the uncertainty caused to him by the Council's delay and its failure to properly consider his DRE request; review Mr Y's DRE request for the cost of the support worker hotel accommodation and the top up cost for his Day Care provision or consider if these should be met by an increase to Mr Y's direct payments and ensure the assessment includes a detailed explanation of the reasoning behind any decision taken; review and provide clear information about Mr Y's direct payments in his support plan and clearly set out the agreed direct payment for his Day Care provision. The Council also agreed by training or other means to remind relevant staff of the importance of properly considering disability related expenditure requests in line with statutory guidance and legislation; remind staff of the importance of adhering to its Customer Standards when communicating with service users or those who support them; and by training or other means remind staff of the importance of adhering to the Council's complaints handling process.

19. Ms M complains the Council refused to provide school transport for her son, B, for the 2021/2022 school year. The LGSCO concluded the third appeal panel to consider her request did not appear to have considered Ms M's appeal properly. To remedy the complaint the Council agreed to reconsider Ms M's application for transport for 2021/2022, paying particular attention to its power to provide transport in those cases that do not meet the criteria in legislation, government guidance and its policy. If the Council decided not to provide transport for 2021/2022, to offer Ms M a fresh appeal. The Council, and any appeal panel, agreed to give reasons for their decision to explain how the Council applied its policy and how it exercised its discretion. The Council also agreed to consider whether it was necessary to produce guidance for transport officers and appeal panels to explain the concept of 'discretion' and to ensure future decisions are sound and properly recorded. In a previous complaint, the Council agreed to make a substantial payment to acknowledge Ms M's time and trouble in pursuing her complaint and the avoidable uncertainty, anxiety and distress she had suffered. The LGSCO recognised the Council was quick to arrange the last appeal, however, recommend the Council make a further payment of £250 to recognise Ms M's time and trouble pursuing another complaint after once again receiving an inadequate decision.
20. Miss B says the Council delayed providing her son with school transport, failed to reimburse her for transport costs; delayed issuing her son's education; health and care plan; failed to commission the necessary reports; failed to offer her a personal budget; failed to ensure her son's special educational needs provision was implemented; failed to provide alternative education when her son was out of school; and delayed responding to her complaint. The LGSCO found there were delays in the transport and education; health and care plan processes; delays dealing with the complaint; failure to provide alternative education; and failure to discuss personal budgets at reviews. To resolve the complaint the Council agreed to apologise; provide Miss B with mileage forms to complete to claim back her transport costs for taking her son to and from school between September and November 2021 and for the two weeks the passenger assistant was absent; complete a risk assessment for the school transport for Miss B's son to make sure it is suitable; pay Miss B £1,000 to reflect the missing provision from her son's EHCP as a result of the delay issuing a final plan in February 2022; provide a refund of the complainant's costs in educating her son between mid-June 2022 and the end of term in July 2022; pay Miss B £500 to reflect her distress and time and trouble; send a reminder to officers dealing with reviews of EHCPs to remind them of the need to discuss the option of a personal budget at the review

meeting; and send a reminder to complaints officers of the need to adhere to the timescales set out in the Council's complaints procedure and to keep those who have complained up-to-date when delays occur.

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

21. Ms X complained about an invoice she has received for care for her father Mr Y. The LGSCO concluded their investigation having made a finding of fault by the Council. Although Mr Y was liable for the care fees, the LGSCO found the Council failed in its duty to appropriately inform Ms X about the liability. The Council had already made a satisfactory award to Ms X to acknowledge the impact this had on her, and had made service improvements to prevent similar occurrences. The LGSCO therefore did not make any further recommendations to the Council.
22. Miss X complained the Council failed to properly reply to her children services complaint. The Council agreed to investigate the complaint at Stage 2 of the Children Act statutory complaints procedure and provide a response within 65 working days of the date of the LGSCO's final decision. The LGSCO upheld the complaint, as the Council had agreed to resolve the complaint early by providing a proportionate remedy for the injustice caused to Miss X.

Upheld: no further action, organisation already remedied

23. The LGSCO decided they would not investigate this complaint about poor care provided to Mr X's mother by her care home. This is because the Council agreed to resolve the complaint early by providing a proportionate remedy for the injustice caused. The Council had already found there was fault in relation to care provided to Mrs A following a fall. It also found there was poor record keeping and a failure by the care home to notify Mrs A's family of the fall immediately. While that was the case, the LGSCO considered there still remained a significant injustice to Mrs A's family which had not been remedied. This was because the situation with Mrs A's fall and inadequate care provided following the fall would undoubtedly have caused them distress. The LGSCO therefore asked the Council to consider remedying the injustice, by making a symbolic financial payment of £300. The Council agreed and the LGSCO concluded, to its credit, the Council had agreed to resolve the complaint by providing a proportionate remedy for the injustice caused.
24. They LGSCO concluded they would not investigate a complaint regarding the Council sharing incorrect information with another Local Authority. The Council had already accepted fault, apologised, offered Mr X £250 for the distress caused by its actions and £250 for any delay in responding to Mr X's complaints. It also reviewed how it shares information with other areas. The LGSCO concluded, further investigation would not lead to a different outcome.
25. In determining this complaint, the LGSCO said they would not investigate the matter of the Council charging Mrs X's friend for the care and support services she received. The friend said the Council did not provide clear information about the services being chargeable. The Council had already upheld the complaint and offered to waive some of the charges, which amounted to just over £400. The LGSCO said the Council's remedy was in line with their guidance and an investigation by them would not lead to a different outcome.

Housing Ombudsman Services (HOS)

Maladministration

26. In relation to a complaint about the landlord's handling of an application for help with water rates, including its communication and the associated complaint, the HOS concluded, in accordance with paragraph 52 of the Housing Ombudsman Scheme, there was maladministration in the landlord's handling of the application to the water company for help with water rates and service failure in the landlord's handling of the resident's associated complaint. The HOS concluded the landlord should pay the resident £150 for the distress and inconvenience caused by the landlord's handling of the application for assistance, including poor communication and £100 for the time and trouble caused to the resident in pursuing this complaint and the landlord's failures in complaint handling.
27. This complaint concerned the landlord's handling of the resident's reports of anti-social behaviour and harassment; the landlord's handling of repairs in readiness for, and after, letting; and the landlord's associated complaint handling. The HOS concluded that in accordance with paragraph 52 of the Housing Ombudsman Scheme, there was maladministration in the landlord's handling of the resident's reports of anti-social behaviour and harassment and the way it handled the complaint. The HOS also concluded that in accordance with paragraph 53(b) of the Housing Ombudsman Scheme, the landlord had already offered redress to the resident prior to investigation which, in the Ombudsman's opinion, resolved satisfactorily the complaint about its handling of repairs in readiness for, and after, letting. The HOS ordered the Council to apologise, pay the resident £1,050 compensation and carry out a review of its handling of the resident's anti-social behaviour and harassment reports to determine what action it should take to prevent a reoccurrence of the failings identified. The HOS also recommended the Council pay the resident the compensation it offered through its complaints process related to the property condition aspects of this complaint, if it had not done so already; review the internal training it delivers on its obligations in accordance with the Equality Act 2010 to ensure staff are clear about their responsibilities to vulnerable residents; review any potential Equality Act 2010 considerations as a matter of standard procedure when considering a resident's complaint; and assess its internal recording procedures against the recommendations of the HOS's Spotlight report on Knowledge and Information Management.

Analysis

28. During 2023/24 the Council received three Upheld: Fault and Injustice decisions, compared to four Upheld: Fault and Injustice decisions in 2022/23.
29. No trends have been identified that would lead the Council to implement additional measures to those identified by the Ombudsman, and the organisational learning identified as a result of these complaints should be sufficient to assist in ensuring there is not a re-occurrence.
30. The LGSCO upheld more complaints about the Council (89%), than they did on average about similar organisations (79%).

31. The LGSCO were satisfied the Council had successfully implemented 100% of their recommendations.
32. The LGSCO also found the Council had provided a satisfactory remedy in more upheld cases (38%) than similar organisations (13%), before the complaint reached the Ombudsman.

Outcome of Consultation

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