

**REPORT TO THE GOVERNANCE & AUDIT COMMITTEE
MEETING ON: 4th March 2020**

Status: For Information
Title: Upheld Complaints: Local Government and Social Care Ombudsman 2017-2020 (to date)
Originator: Chief Officer Governance and Monitoring Officer
Where from: N/A
Where to next: N/A

1 Purpose of report

- 1.1 The report is for information purposes only. It is comprised of information relating to the upheld complaints where the Local Government and Social Care Ombudsman [LGSCO] has found fault in how the Council has handled the material complaint. Such fault can be process based and not restricted to the original reason for the complaint's submission.
- 1.2 The report captures complaint data dating from April 2017 to date to give an indication of the LGSCO's findings over that period of time.
- 1.3 The Council has 29 recorded LGSCO complaints between 1 April 2017 to date. 4 Cases have resulted in an 'upheld' decision. This represents a 13.79% uphold rate, which is below the national annual average of around 54%.

2 Recommendations

- 2.1 **That the Committee receives and notes the content of this report for information purposes.**
- 2.2 **Ombudsman level complaints are routinely evaluated in order to understand any trends which may indicate systemic service failures.**
- 2.3 **Ombudsman recommendations are implemented following the receipt of an upheld complaint outcome.**
- 2.4 **Annual report to Governance and Audit Committee detailing the previous year's upheld complaints and outcomes.**

3 Summary of Reasons for the Recommendations

- 3.1 The above recommendations are suggested as a complaint control and monitoring mechanism, which allows for complaint trend evaluation, highlights any service specific systemic issues and allows for the promotion of service improvement.

4 Impact on Communities

- 4.1 None arising from this report.

5 Key Facts

- 5.1 Over the period in question, the Council has received 4 LGSCO complaint responses which were upheld. This means that following an investigation the Ombudsman has decided that there was sufficient failure to find fault in the way in which the Council either dealt with the complaint at issue, or with processes surrounding the matter of complaint.

- 5.1.2 The Council has 29 recorded LGSCO complaints between 1 April 2017 to date. The 4 cases which were 'upheld' represents a 13.79% uphold rate, which is below the national annual average of around 54%.

Case details:

- 5.2 **Complaint 16014627:** Decision: 17 July 2017. This complaint relates to a planning application 16/00666/NMA - 10 Stamp Close, Market Harborough Extension. The Complainant was minded that they had not been adequately informed of the application nor the affects it would have on adjacent properties.

- 5.2.1 *Summary of findings:* The LGSCO believed that the Council made a mistake in its interpretation of what constitutes a Non-Material Amendment and this should have been a Material Amendment. They acknowledged that the decision would not have been any different despite this perceived error and as a result there was no detriment to the Complainant. HDC did dispute the LGSCO's interpretation, but this did not change the outcome.

- 5.2.2 In this case, it was the application of the criteria which the LGSCO decided was at fault and although there was no finding of fault in terms of the actual decision reached, administratively, there was a finding of fault in that they believed the criteria to have been misapplied. The Council did dispute this finding, but did not pursue the matter further. No further actions were required by the Council

- 5.2.3 **Complaint 17005775:** Decision: 17 November 2018. The complaint concerned the amount of time over which planning enforcement actions were being taken in response to a contravention of an already issued Enforcement Notice.

5.2.4 *Summary of findings:* There was no fault found in the actual decision to under enforce the development in question, but there was fault found in the delays in responding to the enquiries and keeping Complainant up to date with progress etc.

5.2.5 The LGSCO found the Council at fault in the time taken to respond to the developer's non-compliance with the Notice. If the Council had responded in line with its Protocol, it should have checked compliance, reviewed the case file, and decided its next step within 10 working days. The Council's delay meant Mrs X lived with the impact of the unauthorised development on her home for an extra five months. To put this right, the Council agreed to:

- Send Mrs X a written apology for its avoidable delay and poor communication with her and her family;
- pay Mrs X £100 in recognition of the avoidable distress caused by its five month delay; and
- pay Mrs X £100 in recognition of the avoidable time and trouble caused by having to complain to the Council.

5.2.6 All actions in relation to this matter were actioned as of 06 December 2018

5.3 **Complaint 18012739:** Decision: 19 June 2018. Complaint regarding the use of Debt Recovery Agents for NNDR debt owed not by the Complainant. The debtor was residing at the Complainant's address when recovery actions were undertaken. The Complainant payed the outstanding amount even though the debt was not in their name. The Complainant alleged that they felt coerced into payment under threat of losing some of their (not the debtor's) personal possessions by the enforcement agents at that time.

5.3.1 *Summary of findings:* There was no fault in seeking payment of outstanding amount, but there was fault in the way the Enforcement Agent pressed for proof of the Complainant's ownership of goods at the address in question. There was no reflection of the individual circumstances i.e. the Complainant had lived there for many years and receipts for goods would be highly unlikely.

5.3.2 HDC expressed its opinion that the investigator's conclusion was not correct in that the Agent must be free to place some pressure on debtors or it could create a vehicle for debt avoidance. This argument was not accepted by the LGSCO who concluded that the Agent was at fault. A compensation of £150 was suggested as recompense.

5.3.3 There were no further actions required of in relation to this complaint.

5.4 **Complaint 19001632:** Decision: 24 December 2019. Complaint regarding the investigation of a complaint in 2017 submitted and processed under the Member Complaints Process regarding an issue with a local Parish Council and its membership.

5.4.1 Summary of findings: The LGSCO found fault in the delays which were found to be unacceptable during the processing of the complaint. It was also highlighted that there was a lack of contemporaneous notes from the independent investigators appointed to carry out the fact finding exercises in question. The Council was also criticised for not providing a formal response to a complaint tabled in 2017 and for not allowing the Complainant to comment on the draft decision.

5.4.2 Recommended actions:

- The Council should issue an apology for the delays and lack of record keeping.
- The Council should issue a formal response to the 2017 complaint as tabled.
- A Compensation payment of £250 should be made for the inconvenience caused by having to pursue the matter.
- The Council should review its process of allowing a Complainant to comment on a draft complaint response.
- The Council should review its investigative procedures in terms of keeping contemporaneous notes.
- The Council should review its procedure for investigating Code of Conduct Complaints.

5.4.3 The Council did not accept the findings at first instance since the matter itself was never referred for formal investigation. The Council maintained that it conducted several fact finding exercises which resulted in a 'no case to answer' result. As such the Council considered it had acted in accordance with its processes. As no recommendation was made to investigate the material issue, the finding of fault was firmly rebutted by the Council.

5.4.4 Although HDC maintains that no formal investigative procedures were instituted, it accepted the LGSCO's position that it could have done more to communicate the outcomes of the fact finding exercises and has taken the Ombudsman's recommendations on board in respect of that. The Council also expressed regret that this matter has taken time to resolve and apologised for any general inconvenience caused during the processing of the complaint.

5.4.5 The Council updated its Code of Conduct Complaints procedure in early 2019, before the decision on this complaint was issued. LGSCO was informed of this amendment and expressed satisfaction with the actions the Council had taken. This was not reflected in the decision issued above. The Council did make representation to the LGSCO as a result.

5.4.6 All actions in relation to this outcomes of this complaint have been completed.

6 Legal Issues

6.1 None arising from this report.

- 7 Resource Issues
 - 7.1 None arising from this report.
 - 8 Equality Implications
 - 8.1 None arising from this report.
 - 9 Impact on the Organisation
 - 9.1 None arising from this report.
 - 10 Community Safety Implications
 - 10.1 None arising from this report.
 - 11. Carbon Management Implications
 - 11.1 None arising from this report.
 - 12. Risk Management Implications
 - 12.1 None arising from this report.
 - 13 Consultation
 - 13.1 N/A
 - 14 Options Considered
 - 14.1 N/A
 - 15 Background Papers
 - 15.1 N/A
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Previous report(s): *N/A*

Information Issued Under Sensitive Issue Procedure: *N*

Ward Members Notified: *N*