

DECISION-MAKER:	Cabinet
SUBJECT:	Annual Complaints Report (Ombudsman Complaints) 2024
DATE OF DECISION:	17 September 2024
REPORT OF:	Councillor Letts Deputy Leader and Cabinet Member for Finance & Corporate Services

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
N/A	
BRIEF SUMMARY	
A report to summarise the complaints referred to the Local Government & Social Care Ombudsman ('LGSCO') and Housing Ombudsman ('HO') for the complaints year ending 31 st March 2024, performance against comparators and learning from key complaints.	
RECOMMENDATIONS:	
(i)	To consider the complaints outcomes for 2023/24 and to instruct officers to consider these findings when reviewing service delivery and improvement plans for 2024 onwards.
(ii)	To re-confirm Housing Services as the service area designated under the complaints policy for which stage 2 complaints are considered by the Council's independent complaints team within Enabling Services and offered additional advice, training and assistance for the period 2024-26 in order to assist the service area on its improvement journey.
REASONS FOR REPORT RECOMMENDATIONS	
1.	While Councils aspire to get things right first time, every time, we recognise that mistakes can happen. It is important that mistakes (faults) are recognised and used to improve our services and to identify and resolve performance issues wherever possible to drive up service improvement and customer satisfaction. The overall percentage of complaints that are not resolved on initial contact with the Council is low. Complaints that progress through the Council's complaints processes and result in investigation by the LGSCO and

	HO remain a very small proportion of the complaints received demonstrating a good service improvement and learning from complaints ethos within the Council. It is nonetheless important for senior leaders within the Council to understand where failures have resulted in Ombudsman referrals and findings and to ensure that the Council uses complaints data to understand where services can be improved.
2.	The Council's Complaints Policy allows for one additional service area (in addition to Children's Services statutory complaints) to be designated as needing more intensive support from the Council's independent complaints team in Enabling Services. Since April 2024, that Service area has been Housing and it is recommended that continues for at least a further 18 months as this remains the area with the highest number of unresolved complaints at Ombudsman stage and reflects the Council's commitment to addressing the significant impact housing services has on the Council's values and priorities.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
3.	N/A
DETAIL (Including consultation carried out)	
4.	Historically, complaints outcomes and Annual LGSCO Letters have been reported to Governance Committee. In January 2024 changes to the Council's Complaints Policy were approved to reduce the number of complaint stages within the policy and to give greater ownership and accountability for complaint outcomes to service areas by making them responsible for investigating and resolving complaints (at all stages) and building learning from complaints into service area improvement plans. This change allowed the Council's independent complaints team (based within the Legal Partnership in Enabling Services) to focus on advice, assistance and training to service areas to improve their complaints handling and to focus on the time consuming and complex children's services statutory complaints processes. Stage 1 complaints are addressed at frontline service level. Stage 2 (final stage) complaints are addressed by a Senior Manager / Director for the Service. If unresolved at that point a customer may refer the matter to the LGSCO or HO.
5.	In order to provide an appropriate level of challenge and 'critical friend' support it was decided to identify one service area every 2 years for more intensive support and for whom the independent team would undertake stage 2 investigations (normally those carried out by the Senior Manager / Director for the service area after initial complaints responses have failed to secure a resolution). The first area identified for support, and which it is recommended continues for the time being, is Housing Services.
6.	For housing complaints, the LGSCO will investigate those relating to corporate management of housing services or where the complaint does not relate to the landlord function of the Council (homelessness etc). Tenant generated complaints are investigated by the Housing Ombudsman.
LGSCO Complaints 2023-24:	
7.	The full details of the LGSCO Annual letter reporting on complaints received are set out in appendix 1.
8.	68 Complaints were received (61 not upheld) by area were as follows: <ul style="list-style-type: none"> • 11 Adult Social Care

	<ul style="list-style-type: none"> • 5 Corporate (taxation etc) • 20 Education / Children’s Social Care • 14 Environment / Public Protection • 3 Highways & Transport • 9 Housing Management • 6 Planning
9.	<p>The LGSCO carried out eight investigations, of which seven were upheld (88%) as follows:</p> <ul style="list-style-type: none"> • 5 Education and Children’s • 1 Housing • 1 Corporate (allotments)
10.	<p>While this figure may seem high, it is worth noting that 61 of 68 complaints were either not investigated after initial inquiries or were not upheld / did not merit an investigation. In each of the cases that were upheld, the Council had already upheld or partially upheld the complaint at stage 2 and the complainant referred the matter to the LGSCO as they were dissatisfied with the remedy they were offered. These figures compare very favourably with our comparator authorities as they represent an uphold rate of 2.8 decisions per 100,000 residents (compared to 4.6 decisions per 100,000 in similar unitary authorities). The service improvements the Council agreed to implement to remedy these complaints are set out in appendix 1.</p>
11.	<p>This is reflected in the ‘satisfactory remedy’ section of the annual letter which confirmed that only one of the seven upheld complaints was adequately remedied by the Council (an apology was offered in all cases, but compensation was not). The Council is not an outlier in this regard (14% compared to 13% elsewhere) but it does reflect the need to work with service areas to identify the correct remedy to offer where complaints are upheld earlier in the complaints process. Sometimes ‘saying sorry’ is simply not enough. The guiding principle followed by the LGSCO is to ‘put the complainant back in the position they would have been in had the Council’s fault not occurred’. This doesn’t always mean offering compensation, but sometimes we do need to recognise the time and trouble a person has been put to in making and pursuing a valid complaint and consider non-monetary remedies (e.g. where multiple parking tickets have been issued incorrectly, consider giving the complainant a season ticket for parking for a suitable period as a remedy or where alternative education provision has been missed, consider funding a tutor to ‘catch up’ learning).</p>
12.	<p>The Council has a strong relationship with the LGSCO and works hard to ensure their findings are something the Council can, and should, implement. This is reflected in the 100% compliance rate with their findings on complaints.</p>
	<p>HO Complaints 2023-24:</p>
13.	<p>The Housing Ombudsman deals with complaints from or relating to Council tenants and the landlord functions of the Council. The Housing Ombudsman was established by the Secretary of State for Communities and Local Government under the Housing Act 1996 and Council’s and other registered social landlords are required by law to be members of the Ombudsman Scheme. The Housing Ombudsman has similar powers to the LGSCO, albeit deriving from the powers of the Secretary of State and Housing Act. While</p>

	<p>the Housing Ombudsman publishes an annual complaints review, they do not provide reporting data to individual Councils in the same way as the LGSCO does. We have pulled the following together from our own corporate data on complaints.</p>
14.	<p>The Housing Ombudsman has a statutory Complaints Handling Code which came into force on 1st April 2024. The Council has assessed its complaints policies and processes against this Code and is compliant.</p>
15.	<p>The Council is not notified of the number of complaints referred to the Housing Ombudsman versus those they decide to investigate. Our figures for 2023-24 identify five proceeded to full investigation. Three of the complaints was upheld. One case related to noise / anti-social behaviour reported by one tenant against another. An order for £300 compensation was agreed together with an undertaking to apologise and review our guidance and training for officers on record keeping around the analysis of noise recordings and on ensuring it has proper regard to its ASB powers when it receives complaints (disconnect between housing services and noise nuisance services identified). A second case related to damp and mould and delays remedying that. A total of £2,857.70 compensation was payable in that case, together with orders to rectify the condition of the property. The remaining case related to a failure in a heating system with £450 compensation and repairs ordered.</p>
16.	<p>It should be noted that the Housing Ombudsman was dealing with a significant backlog of repairs post covid and referrals to the Council were consistently low until April 2024. We had already identified a growing area of concern, despite the figures set out above, based on the number of legal disrepair claims we were receiving. This has been borne out by the part year figures for 2024. From April of this year (and will be reported in full in the next annual report) we have 18 Housing Ombudsman cases in the first five months of 2024. That is more than triple the annual complaints from last year with 8 months of the reporting year still to go.</p>
17.	<p>A requirement for all housing staff to undertake the online complaints learning has been agreed by Senior Managers and is in the process of being rolled out across the summer to all housing staff. Further, more targeted training delivered by the complaints team in Enabling Services was planned for the summer, however this has had to be postponed to the Autumn due to the unforeseen death in service of the Council's complaints manager and the need to triage resources to complaint investigation while the very small team recovers from this loss. Complaint investigation has been supplemented by other members of the Legal Partnership team, including the Head of Legal Services Partnership (who acts as the Council's ombudsman link officer) while we support the remaining member of the complaints team during this time and carry out recruitment activity to bring the team back up to capacity.</p>
18.	<p>Housing Services are working with the Council's complaints team to identify trends in complaints and service improvements plans (focused initially on dealing with repairs and cross departmental working and communication, ownership of complaints within housing and improving communication with complainants and tenants more generally. A complaint review panel has been established in the service area to oversee learning from complaints and track, monitor and report on trends in housing complaints and consideration is being given to creating a post within housing that acts as a single point of</p>

	contact for complaints handling and evidence collation (a position trialled and working well in both Adults and Childrens Services).
19.	The Housing Ombudsman has recently published several special investigation reports that will need to be built into learning by the Council's Housing Services. These include a spotlight report on 'Repairing Trust' issued on 1 st August 2024 relating to the national issues being faced by Council's in dealing with housing repair backlogs and disrepair claims, a special investigation into Lewisham Council due to the very high failure rate of maladministration in that Council and spotlight reports on 'Damp and Mould, noise complaints, and complaint handling processes. Reviewing and considering these will be built into the housing service improvement plan and the work of the newly established complaints review panel in housing.
	Council (stage 1 and 2 Complaints):
20.	Detailed monitoring and learning from these complaints are not available for the 2023-24 year as we have only moved to the new complaints system from 1 st April 2024. Service areas are not yet fully recording complaints on LAGAN (the Council's current complaints recording system) and it is proposed to report in more detail on the operation of service area ownership of complaints in the next annual report. Headline figures for Members information is as follows.
21.	<p>Total complaints received (stage 1) - 550.</p> <ul style="list-style-type: none"> • Adults Housing –405 (of which 341 Housing) • Childrens – 76 • Corporate – 1 • Gateway – 4 • Growth 21 (of which 7 Planning / 12 Transport) • Revs & Bens – 23 • Waste – 1 (note – we do NOT record missed bins as complaints)
22.	Service areas have not included any detail of payments made, compensation payable or remedies offered in relation to the above complaints or the percentage / number upheld.
23.	From the data available it can be reported that in 246 cases, an apology was given (suggesting at least 246 were upheld in whole or part), in 374 cases an explanation was offered to the complainant, in 146 cases the Council agreed to make repairs (at the Council's cost), in 4 cases it was agreed to repay outstanding amounts owed (overpayments) and in 1 case a compensation payment is recorded at stage 1 (but not how much or for what).
24.	<p>Total complaints received (stage 2) – 182:</p> <p>Details of complaints and learning is attached at appendix 2. Headlines are:</p> <ul style="list-style-type: none"> • 13 Partially Upheld / 22 Upheld <p>A total of £3010 compensation was offered to resolve complaints at stage 2 before progressing on to LGSCO / HO.</p>

	<p>Service area complaints at stage 2:</p> <ul style="list-style-type: none"> • 13 Adults' • 19 Childrens • 6 Education and schools • 10 Corporate • 8 Council Tax / Benefits • 6 Parking • 6 Highways • 4 Hospital Discharge • 8 Parks & Street Cleansing • 9 Planning • 10 Regulatory Services (Bereavement /Environmental Heath) • 4 Waste • 68 Housing (Repairs, Leasehold, Allocations, Supported Housing).
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
25.	<p>Where a complaint is upheld a compensation payment may be ordered. Compensation amounts remain low and in line with previous years. A total of £4,532.70 was payable in 2023-24 (of which £3,582.70 relate to Housing Ombudsman matters). The cost of compensation payments agreed with the LGSCO and HO are borne by the service area in which the main default occurred. This is in addition to the £3,010 in remedies offered at stage 2 (internal) Council complaints.</p>
26.	<p>This does not capture the cost of remedying complaints to service areas (cost of repair, cost of replacement services etc) which the complaints service cannot monitor or track and which is reflected in service area budgets. These costs can be high (the average cost of a repair can range from £500 to £50k plus depending on the type and nature of the repair required, for Childrens and Education complaints the costs can be significant if they require additional service under a care plan, or a financial re-assessment for carers payment for adults etc. The overall cost to the Council of remedying faults remains an area of financial concern for service area budgets (as unplanned expenditure) that increases pressure on planned service budgets.</p>
<u>Property/Other</u>	
27.	<p>Housing disrepairs continue to be the highest area of upheld complaints relating to Council assets. An improvement plan is being progressed to address the backlog of disrepair within housing stock and will be the subject of separate reporting (including feedback from the recent Housing Regulator visit) in due course. Any Improvement Plan, and any change in the number and nature of complaints and disrepairs claims received, will be subject to and dependent upon approval of the Asset Management Strategy and identification of appropriate funding to invest in the improvement of housing stock condition.</p>
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	

28.	S.111 Local Government Act 1972 and s.1 Localism Act 2011 provide the framework under which the Council operates a complaints policy to assist in the delivery of its statutory and discretionary functions.
29.	The LGSCO operates under Royal Charter and is designated by the Crown under the Local Government Act 1974 (Part III) to investigate complaints against Councils and provide advice and guidance on good administrative practice. The LGSCO has the same powers as the High Court to compel the production of evidence and information to enable them to investigate complaints and issue their findings (which are publicly available on their website). The 1974 Act provides a process under which Councils voluntarily resolve complaints and, in the event they fail to do so, a statutory Order and publication process through full Council. Ultimately the LGSCO may take Court action to secure Directions to comply with their Orders and may publish 'Public Interest Reports' nationally where they find serious failings it in in the wider public interest to report on.
<u>Other Legal Implications:</u>	
30.	In investigating, responding to and reporting on complaints the Council has had regards to its duties under s149 Equalities Act 2010 (the 'Public Sector Equality Duty'), s.17 Crime & Disorder Act 1998, the Data Protection Act 2018 and the legislative framework under which we deliver our statutory services. A formal Equalities Impact Assessment is not required in relation to this 'information' report.
RISK MANAGEMENT IMPLICATIONS	
31.	The Council has a strong complaints reporting and learning from complaints framework. Complaint levels remain relatively low when considered alongside comparator data and the system of recording and responding to complaints is robust. Nonetheless, upheld complaints represent those times the Council has 'got it wrong' and there are reputational and financial consequences when this occurs. These are recorded in this report.
32.	The greatest area of financial costs and reputational risk to the Council remains housing disrepair claims. These are increasing and while resources are being identified and put in place to address these (including the legal claims for disrepair that have a separate legal route for challenge outside the complaints policy) it will take time to address the backlog of repairs required within financial and people resources available. It is primarily for this reason that Housing Services are recommended to remain the service area provided with additional complaints support for the next 18 months – 2 years.
POLICY FRAMEWORK IMPLICATIONS	
33.	Reporting on and learning from complaints supports the delivery of all council services and functions and directly feeds into service improvements under the Council's corporate plans and priorities.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	N/A
<u>SUPPORTING DOCUMENTATION</u>	

Appendices		
1.	Annual LGSCO Letter and Report	
2.	Complaints Data – Stage 2	
Documents In Members' Rooms		
1.	N/A	
Equality Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		No
Data Protection Impact Assessment		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		No
Other Background Documents		
Other Background documents available for inspection at:		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	N/A	
2.	N/A	