

Report of: Monitoring Officer

| Meeting of: | Date: | All |
|--------------------|-----------------|------------|
| Audit Committee | 28 January 2020 | All |

THE APPENDIX TO THIS REPORT IS NOT FOR PUBLICATION

SUBJECT: Local Government & Social Care Ombudsman (LGSCO) Annual Review performance report 2019

1. Synopsis

- 1.1 Following the publication of the LGSCO Annual Review letter 2019, this report provides a summary of the council's performance in complaint handling from 1 April 2018 – 31 March 2019, highlighting decisions upheld by the LGSCO.

The report details the number of complaints received (106) by the LGSCO for the authority during 18/19. Complaint decisions 108.

* 108 Decision made includes two complaints received in the previous financial year.

Of the 108 cases decided upon, 26 underwent a detailed investigation, 82 cases received decisions, which resulted in alternative outcomes directed to the complainant. All LGSCO decisions are shown in table two, page two of the LGSCO Annual Review letter.

Of the 26 cases investigated 11 cases received a decision of upheld (findings of maladministration).

Of the 11 upheld cases the authority provided a satisfactory remedy to 3 cases before the complaint reached the Ombudsman.

Of the 10 complaints where compliance with the recommended remedy was recorded during 18/19, 10 recommendations were completed on time.

2. Recommendations

- 2.1 To note the Local Government & Social Care Ombudsman Annual Review letter 2019 dated 24 July 2019 **See Appendix 1.**
- 2.2 To note that, of the 26 cases investigated, there were 11 upheld decisions (finding of maladministration) with the remaining 15 cases not upheld.
- 2.3 To note that 3 out of the 11 upheld cases, received a satisfactory remedy before the Ombudsman involvement. This is 28% of cases upheld and an improvement on 2017/18 where 10% of cases received a satisfactory remedy.
- 2.4 To note that 10 out of the 10 cases (100%) complied with the Ombudsman recommendations on time. This is a new reportable measure and so far, the council has been fully compliant.
- 2.5 To note that separate to the complaints investigated by the LGSCO reported in the Annual Review Letter, one upheld decision during the period in question (finding of maladministration) was decided by the Housing Ombudsman, **See Appendix 2.**
- 2.6 To note that, in line with the statutory duty under section 5A (2) of the Local Government and Housing Act 1989, the Monitoring Officer provides this annual report to Audit Committee.

3. Background

- 3.1 A total of 11 cases with decisions upheld by the LGSCO.

Table 1: Services and summary of decisions

Adult Care Services Total - Total of 2 upheld cases

| Summary of complaint | Findings | Compensation Reason & Amount |
|---|---|--|
| Failure to provide a remedy for the impact the overcharge (weekly contribution for care) had on the family. Unreasonable delay in carrying out care review. The lack of support to carer. | <p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance On- time.</p> | <p>Compensation £2560.00</p> <p>Reason Compensation Paid Distress, unreasonable delay. Carer Direct payment from January 2016 to June 2017.</p> <p>Learnings Case review carried out to establish learning for the service.</p> |
| Failure to properly consider its decision to stop paying for the | <p>Finding Maladministration and Injustice</p> | <p>Compensation Refund paid £2,280</p> |

| | | |
|--|---|--|
| <p>second room (to enable a carer to stay overnight). Did not identify how else it would discharge its duty to meet the complainant's eligible night time needs. Took too long to reconsider its decision.</p> | <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance On- time.</p> | <p>Reason Compensation Paid For the costs of the second room for five and a half months paid by the complainant.</p> <p>Formal apology</p> <p>Learnings Review the relevant law and guidance, including the Care Act 2014 and its associated statutory guidance.</p> |
|--|---|--|

Children Services - Total of 2 upheld case

| Summary of complaint | Findings | Compensation Reason & Amount |
|--|---|--|
| <p>Failure to provide assistance and subsequently lost contact with a 16-year-old who was threatened with homelessness, which led to uncertainty about her welfare.</p> <p>Public Report March 2018</p> | <p>Finding Maladministration and Injustice</p> <p>Remedy No satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance On-time</p> | <p>Compensation £400</p> <p>Reason Compensation Paid Distress</p> <p>Learnings The service has reviewed why fault occurred and the learning going forward.</p> |
| <p>The Council's Children and Family Assessment report was one-sided and flawed and pursued by the complainant in order for the Council to acknowledge its mistakes and correct its records.</p> | <p>Finding Maladministration and Injustice</p> <p>Remedy <u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p> <p>Compliance On-time</p> | <p>Compensation £800</p> <p>Reason Compensation Paid Distress & Delay.</p> <p>Learnings Findings shared with all Children in Need staff so the learning can be disseminated and review training on assessments.</p> |

Environment Services - Total of 2 upheld case

| Summary of complaint | Findings | Compensation Reason & Amount |
|---|---|---|
| The Council wrongly issued parking penalty notices to visitors to the complainant's home. | <p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance On-time</p> | <p>Compensation £300</p> <p>Reason Compensation Paid Distress, Time and Trouble.</p> <p>Learnings Staff made aware of the correct application of the rules through refresher training and ongoing staff briefings.</p> |
| The Council wrongly directed bailiffs to recover an unpaid fine from the complainant's company. | <p>Finding Maladministration and Injustice</p> <p>Remedy <u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p> <p>Compliance On-time</p> | <p>Compensation £150</p> <p>Reason Compensation Paid Distress</p> <p>Learnings Staff retrained on conducting robust and accurate vehicle checks.</p> |

Housing Needs - Total of 1 upheld cases

| Summary of complaint | Findings | Compensation Reason & Amount |
|---|---|---|
| The council's records do not show how it considered the medical reports. The council's information regarding seeking a review of its decision was misleading. | <p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance On-time</p> | <p>Compensation N/A - A letter to the complainant explaining the council's decision was sufficient.</p> <p>Learnings The council reviewed its decision letters.</p> |

Resources - Total of 4 upheld case

| Summary of complaint | Findings | Compensation Reason & Amount |
|---|---|---|
| <p>The Council unreasonably withheld consent for alterations the complainant's leasehold property because it insisted on the agreement of a neighbouring leaseholder.</p> | <p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance On-time</p> | <p>Compensation £500</p> <p>Reason Compensation Paid Delay, Time and Trouble</p> |
| <p>Failure in how the council considered the complainant's circumstances. Incorrect information given regarding the minimum recovery rate to repay an overpayment of Housing Benefit.</p> | <p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance On- time.</p> | <p>Compensation £250</p> <p>Reason Compensation Paid Time and trouble.</p> <p>Learnings Guidance to staff on Housing Benefit regulation.</p> |
| <p>Failure to follow the correct procedure before ending Benefit payments.</p> | <p>Finding Maladministration and Injustice</p> <p>Remedy <u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p> <p>Compliance On- time.</p> | <p>Compensation £200</p> <p>Reason Compensation Paid Satisfactory Time and Trouble remedy in line with LGSCO guidance on remedies.</p> <p>Learnings Guidance to staff on Housing Benefit regulation.</p> |
| <p>The Council delayed in sending a complainant's appeal to the Tribunal.</p> | <p>Finding Maladministration No Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance N/A – Progress appeal to the Tribunal.</p> | <p>Compensation None</p> <p>Reason Compensation Paid None – Case progressed to the Tribunal</p> <p>Learnings Officer notified of the error.</p> |

3.2 Comparison to the Previous Year

| | Complaints received | Complaints investigated | Complaints upheld | Upheld rate |
|------------------|----------------------------|--------------------------------|--------------------------|--------------------|
| 2014/2015 | 111 | 16 | 7 | 43% |
| 2015/2016 | 100 | 21 | 10 | 48% |
| 2016/2017 | 106 | 16 | 7 | 44% |
| 2017/2018 | 126 | 16 | 11 | 69% |
| 2018/2019 | 106 | 26 | 11 | 42% |

The number of complaints received by the LGSCO for 2018/19 decreased by 20 cases. Total complaints investigated of 26 was the highest over the 5 years, of these 26, only 11 were upheld by the LGSCO. In percentage terms the lowest and therefore our best performance for several years

Satisfactory remedy provided

| | Complaints Upheld | Complaints remedied | % of upheld cases |
|----------------|--------------------------|----------------------------|--------------------------|
| 2017/18 | 11 | 1 | 10 |
| 2018/19 | 11 | 3 | 28 |

Compliance with Ombudsman recommendations

| | Complaints recommendations <small>for current year</small> | Compliance with recommendations <small>for current year</small> | % of upheld cases |
|----------------|--|---|--------------------------|
| 2018/19 | 10 | 10 | 100 |

3.3 Commendations

The Local Government & Social Care Ombudsman Annual Review letter highlighted in its report areas where the authority; led by the Corporate Complaints team took positive action and good work was achieved by the council.

Public Report

The case of Miss A (See 3.2 Children Services summary), learnings with particular regard to transition of services between Local Authorities after a family moved, was acknowledged across children social care. A public interest report was published on the council website and in two local newspapers on the 13 June 2018 and reported to the meeting of the Executive on 19 July 2018.

The Ombudsman welcomes the positive action taken to learn from the complaint to avoid similar problems for others in the future. Praise is also given for the authorities' use of social media to promptly and publicly acknowledge the outcome of this case.

See Appendix 3: Public report letter of satisfaction

Training

The LGSCO has recognised our “*exemplary investment*” to delivering training in General Effective Complaint Handling and Effective Complaint Handling in Adult Social Care. These courses became mandatory for all council staff and partner organisations in April 2018 and 165 people have been through the training.

3.4

Complaints/Improvement

There have been identifiable trends in complaint decisions, which have attributed to the number of complaints being upheld following a detailed investigation.

- Not adhering to our own procedures.
- Poor communication with residents and services users.

Both are further compounded by officers not using remedy and compensation guidelines to compensate complainants for Time and Trouble and Delay.

3.5

Improvement

The focus for the Corporate Complaints will be to further support services in Good Complaint Handling and Compliance to the Councils Corporate Complaints policy and Ombudsman guidelines. This will include;

- Scrutiny of complaint Stage one responses at the Chief Executive Stage of the complaint process. Using the authority given to the Corporate Complaints team to change service decisions where proper consideration has not been given to the remedy; helping services to learn from their faults.
- Maintaining links with Departmental Complaint Leads and Senior Managers within each Council Directorate to maintain 100% compliance and reinforce the importance of effective complaint handling within their Directorates.
- Share publicised reports provided by the LGSCO to ensure the authority and directorates keep abreast of the research and expectations placed upon the authority. “Getting things right during times of change”.
- Training on Effective Complaint Handling and Effective Complaint Handling Adult Social Care will continue in autumn 2019 for all Islington staff and Partner Organisations involved in complaint handling and the general management of complaints. This will ensure that new staff are developed and any staff in need of refresher training is also considered.

3.6

Summary

The Annual Review letter 2019 shows a good year in the council performance in handling complaints. In addition to the commendations highlighted in this year's report the conclusion is as follows;

- ✓ Despite having an increase in detailed investigations by the LGSCO, the volume of complaints upheld remained the same; and in percentage terms fell.
- ✓ Compliance with recommendations at 100%.
- ✓ The emphasis placed on providing a satisfactory remedy before LGSCO involvement is showing results with three cases (28%) remedied appropriately.
- ✓ In addition to the LGSCO statistics the Housing Ombudsman cases of maladministration fell from 4 in 2017/18 to one in 2018/19.

4.

4.1 Financial implications:

A total of £7,440 has been paid in compensation for 2018/19, an increase of £2,080 on the previous year's figure of £5,360. The increase is mainly due to the payments refunded to complainants as a remedy to Adult Services upheld complaints. Compensation payments are funded directly by the service where the fault occurred.

4.2 Legal Implications:

The Local Government Ombudsman has advised that:

a) where findings of maladministration/fault are made in regard to routine mistakes and service failures, and the authority has agreed to remedy the complaint by implementing the recommendations made following an investigation, the duty is satisfactorily discharged by the Monitoring Officer making a periodic report to the council summarising the findings on all upheld complaints over a specific period.

b) where an investigation has wider implications for council policy or exposes a more significant finding of maladministration, perhaps because of the scale of the fault or injustice, or the number of people affected, the Monitoring Officer should consider whether the implications of that investigation ought to be individually reported to members.

c) in the unlikely event that an authority is minded not to comply with the Ombudsman's recommendations following a finding of maladministration, the Monitoring Officer would be expected to report this to members under section 5A (2) of the Local Government and Housing Act 1989. This is an exceptional and unusual course of action for any authority.

The reporting procedure employed by the Central Complaints Unit and Monitoring Officer complies with the above guidance by the Local Government Ombudsman as well as ensuring that the Audit Committee has an opportunity to consider the outcome of the local government ombudsman's determinations of complaints made against the council.

This process meets the Monitoring Officer's reporting duties under section 5A (2) of the Local Government and Housing Act 1989.

4.3 Environmental Implications

There are no environmental implications arising from this report.

4.4 Resident Impact Assessment:

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

5. Reason for recommendations

- 5.1 To ensure that Councillors are kept informed about complaints that have been reviewed by the Local Government and Social Care Ombudsman.

Appendix 1: Local Government & Social Care Ombudsman Annual review letter dated 24 July 2019.

Appendix 2: Housing Ombudsman Complaints with finding of maladministration.

Appendix 3: Public report letter of satisfaction

Final report clearance:

Signed by:



Peter Fehler
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Monitoring Officer

Date: 3 January 2020

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