

Report of:

Meeting of:	Date:	All
Audit Committee	25 January 2021	All

THE APPENDIX TO THIS REPORT IS NOT FOR PUBLICATION
SUBJECT: Local Government & Social Care Ombudsman (LGSCO) Annual Review performance report 2020
1. Synopsis

- 1.1 Following the publication of the LGSCO Annual Review letter 2020, this report provides a summary of the council's performance in complaint handling from 1 April 2019 – 31 March 2020, highlighting decisions upheld by the LGSCO.

The number of complaints received (84) by the LGSCO for the authority during 19/20.

Of the 84 cases received, 24 underwent a detailed investigation, 60 cases received decisions, which resulted in alternative outcomes directed to the complainant. All LGSCO decisions are shown in the statistics report included with the LGSCO Annual Review letter.

Of the 24 cases investigated 17 cases received a decision of upheld or maladministration with injustice.

Of the 17 cases, the authority provided a satisfactory remedy to 5 cases before the complaint reached the Ombudsman.

7 cases received a decision of No maladministration or injustice.

Of the 9 complaints where compliance with the recommended remedy was recorded during 19/20, 9 recommendations were complied with.

Department and Management actions confirmed in 3.5 and 3.6 of this report.

2. Recommendations

- 2.1 To note the Local Government & Social Care Ombudsman Annual Review letter 2020 dated 22 July 2020 **See Appendix 1.**
- 2.2 To note that, of the 24 cases investigated, there were 17 upheld decisions with the remaining 7 cases not upheld.
- 2.3 To note that 5 out of the 17 upheld cases, received a satisfactory remedy before the Ombudsman involvement.
- 2.4 To note that 9 out of the 9 cases recommended during 1 April 2019 to 31 March 2020 (100%) complied with the Ombudsman recommendations.
- 2.5 To note that 3 out of the 17 cases were resolved during LGSCO investigation requiring no further compliance.
- 2.6 To note that separate to the complaints investigated by the LGSCO reported in the Annual Review Letter, 3 upheld decision during the period in question (finding of maladministration) were decided by the Housing Ombudsman, **See Appendix 2.**
- 2.7 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 17 cases with decisions upheld by the LGSCO.

Table 1: Services and summary of decisions

Adult Care Services Total - Total of 7 upheld cases

Summary of complaint	Findings	Compensation Reason & Amount
The council failed to provide proper advice about future care charges that would need to be paid.	<p>Finding Upheld</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Yes On time</p>	<p>Compensation £0</p> <p>Reason Compensation Paid</p> <p>Learnings Improve communication with clients through home visit or telephone to review health and financial circumstances.</p>
Joint investigation with Parliamentary and Health Service Ombudsman.	<p>Finding Maladministration and Injustice</p> <p>Remedy</p>	<p>Compensation Refund paid £27,620.30 includes interest.</p>

<p>The London Borough of Islington and Camden and Islington NHS Foundation Trust failed to properly consider the complainant's brother's entitlement to aftercare services which should have been provided without charge.</p>	<p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Yes On time</p>	<p>£200 Council £300 NHS trust. Total £500.</p> <p>Reason Compensation Paid To acknowledge the injustice.</p> <p>Formal apology</p> <p>Learnings NHS trust will provide training for staff, and improve practice. The Council will complete a register to identify whether anyone else in its locality has been affected.</p>
<p>The Council sent a bill for care charges in a format that the complainant could not understand and without telling them, it had carried out an assessment.</p>	<p>Finding Maladministration and Injustice</p> <p>Remedy No satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Yes On time</p>	<p>Compensation Refund £426.86</p> <p>Learning Reminder to individual officer</p>
<p>The lack of support and information received from the Council when dealing with the estate of the recently deceased son. Delay by the Council in finalising the son's account and dealing with the complaint.</p>	<p>Finding Maladministration and Injustice</p> <p>Remedy <u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p> <p>Compliance Remedied before LGSCO involvement.</p>	<p>Compensation £200</p> <p>Reason Compensation Paid Distress & Delay.</p> <p>Learning Reminder to individual officer</p>
<p>The councils care plan did not meet care needs. Responses not provided to complaints and the</p>	<p>Finding Maladministration and Injustice</p> <p>Remedy</p>	<p>Compensation £200 Apology</p>

<p>council did not employ the use of the British Sign Language service as promised.</p> <p>No fault found with care plan.</p>	<p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Remedied during LGSCO investigation.</p>	<p>Reason Compensation Paid Distress.</p> <p>Learning Service improvement in communication provisions.</p>
<p>The Council was at fault for the way it dealt with the request for adaptations to the flat and the request to allocate a social worker.</p>	<p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Yes On time</p>	<p>Compensation £100 Apology</p> <p>Reason Compensation Paid Distress</p> <p>Learning A mechanism has been put in place to ensure that, when a client is unhappy with the recommendation of an OT as part of a DFG application, they are informed at the earliest opportunity of their right to request another OT assessment.</p>
<p>The Council delayed in assessing care and support needs and then delayed in providing the care to meet those needs The council failed to work together effectively.</p>	<p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Yes On time</p>	<p>Compensation £200 Apology</p> <p>Reason Compensation Paid Distress</p> <p>Learning Remind officers where appropriate, to consider if there is a need for an emergency care package prior to completing the needs assessment and record its consideration of this. Reminder to consider combined or integrated assessment; review its</p>

		documentation to consider enabling the recording of integrated care. Remind officers of the need to provide individuals with a copy of their care and support plan and any reviews of this plan.
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Children Services - Total of 0 upheld case

Environment Services - Total of 3 upheld cases

Summary of complaint	Findings	Compensation Reason & Amount
The Council failed to make reasonable adjustments to appeal a Parking Charge Notice and failed to keep to the reasonable adjustments it agreed to. The Council failed to remove the charge certificate and then relied on this when pursuing the outstanding charge.	<p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Yes On time</p>	<p>Compensation £100</p> <p>Reason Compensation Paid Time and Trouble.</p> <p>Learnings The council has reminded staff of the need to adhere to any reasonable adjustments agreed with service users. Revised the wording of the Notice to Owners and PCNs to provide a contact telephone number for people who wish to request reasonable adjustments when making representations.</p>
The Council's breach of data protection in relation to information held on vehicle ownership. <u>Ombudsman view.</u> Information Commissioner and the courts are better placed to deal with the matter.	<p>Finding Upheld</p> <p>Remedy <u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p> <p>Compliance Remedied before LGSCO involvement.</p>	<p>Compensation £0</p> <p>The Council has agreed to accept a reduced payment in settlement of the PCN, which provides a suitable remedy.</p>

<p>The Council pursued a penalty charge notice and removed the car without following the correct procedures</p>	<p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Remedied during LGSCO investigation.</p>	<p>Compensation £400</p> <p>Reason Compensation Paid Distress</p> <p>Learnings The council will communicate effectively with the enforcement company it employs to handle PCN enforcement. This will show the stages and triggers used to alert enforcement agents to progress on the case, particularly when it should lead to the withdrawal of the enforcement agents.</p>
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Housing Needs - Total of 4 upheld cases

Summary of complaint	Findings	Compensation Reason & Amount
<p>The Councils handling of the homeless application and delays in providing advice and assistance. The council failed to provide suitable temporary accommodation while it investigated the homeless application.</p>	<p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Yes Late</p>	<p>Compensation £1650 Apology</p> <p>Reason Compensation Paid Distress</p> <p>Learnings The employment of a Property Inspection officer for 12 months to inspect all temporary accommodation properties in use. The inspections will check the physical standards of the accommodation, ensuring they comply with minimum standards and health and safety regulations and liaising with property owners and environmental</p>

		health teams to tackle substandard property conditions.
The Council did not take reasonable steps to protect belongings when the complainant became homeless in 2015. As a result, they had to pay for private storage and went into debt. The Council did not properly consider its duty or advise of options in 2015. It took until the complaint in 2016 to properly advise.	<p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Yes On time</p>	<p>Compensation Costs £1475.60 £150</p> <p>Reason Compensation Paid Time and trouble</p> <p>Learnings Review standard letters for people facing eviction to ensure it mentions storage.</p>
The Council delayed in offering a review and did not explain how it considered the supporting information provided.	<p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Yes Late</p>	<p>Compensation £250</p> <p>Reason Compensation Paid Delay</p> <p>Learnings Reminder to officers to explain how they have considered supporting information when making a decision about housing priority and include a timescale for reviews in the published allocations scheme.</p>
The Council delayed in dealing with the complaint.	<p>Finding Upheld</p> <p>Remedy <u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p> <p>Compliance Remedied before LGSCO involvement.</p>	<p>Compensation £100</p> <p>Reason Compensation Paid Delay</p> <p>Learning Individual officer reminded of the complaint process</p>

Resources - Total of 3 upheld case

Summary of complaint	Findings	Compensation Reason & Amount
<p><u>Public Report 17</u> <u>October 2019</u></p> <p>The Council unreasonably delayed in sending a demand for business rates for 1 April 2000 to 31 March 2001, which the complainant considers they were not liable for. As a result, the complainant could not challenge the Council's decision, as they no longer has the evidence to do so.</p>	<p>Finding Maladministration and Injustice</p> <p>Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance Remedied during LGSCO investigation.</p>	<p>Compensation £1038.20 Reimburse payment made £100</p> <p>Reason Compensation Paid Time and Trouble</p> <p>Learnings Review the Council Tax and Business Rates Collection Policy to ensure it considers if it is fair to pursue a historical debt when the passage of time may prevent a person from being able to challenge the debt.</p>
<p>The Council wrongly stopped the housing benefit and council tax support and sought to recover a large overpayment.</p>	<p>Finding Upheld</p> <p>Remedy <u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p> <p>Compliance Remedied before LGSCO involvement.</p>	<p>Compensation £300</p> <p>Reason Compensation Paid Distress</p> <p>Learning Officer reminded of overpayment recovery process</p>
<p>The Council applied court costs to the complainants Council Tax account</p>	<p>Finding Upheld</p> <p>Remedy <u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p> <p>Compliance Remedied before LGSCO involvement.</p>	<p>Compensation Court costs withdrawn Council tax liability paid</p> <p>Learning Administrative error</p>

3.2 Comparison to the Previous Year

	Complaints received	Complaints investigated	Complaints upheld	Upheld rate
2015/2016	100	21	10	48%
2016/2017	106	16	7	44%
2017/2018	126	16	11	69%
2018/2019	106	26	11	42%
2019/2020	84	24	17	71%

The number of complaints received by the LGSCO for 2019/20 decreased by 22 cases the lowest in 5 years. There could be a C-19 impact in relation to complaints recorded before year end.

Of the upheld cases, the ombudsman has decided that it will not investigate 5 cases because they were satisfied with the actions the council has taken or proposes to take. (**Local Government Act 1974, section 24A (7), as amended**). These cases were classified in the LGSCO decision letter as, Upheld not investigated – injustice remedied.

Findings for the remaining 12 cases are Maladministration and Injustice.

Satisfactory remedy provided

	Complaints Upheld	Complaints remedied	% of upheld cases
2017/18	11	1	10
2018/19	11	3	28
2019/20	17	5	29

In two cases, remedies were not completed within the agreed timescales.

Compliance with Ombudsman recommendations

	Complaints recommendations for current year	Compliance with recommendations for current year	% of upheld cases
2018/19	10	10	100
2019/20	9	9	100

Compensation payments

	Compensation paid	£ +/-
2018/19	£7,440.00	

2019/20	£3,950.00	-3490.00
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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 council accepts the LGSCO findings of maladministration and injustice relating to the delays in taking action to trace Mrs X for outstanding business rates. As a result, Mrs X alleged that she could not challenge the council's decision that she is liable for the business rates, as she no longer has the evidence to do so.

The Acting Director of Financial Operations and Customer Services agreed the course of action. In response to the draft ombudsman report, the council sought Counsel's advice relating to the fairness of the collection of historical debt. It was recognised that there may be particular lessons in relation to evidence provided in this particular case, however the council remains of the opinion that it is fair to collect outstanding debt so long as the council has appropriate evidence to support it.

A public interest report was published on the council's website and in two local newspapers on the 24 October 2019; and reported to the meeting of the Executive on 28 November 2019.

The Ombudsman welcomed the positive action taken and the implementation of the recommendations however it is noted by the LGSCO disappointment that the council did not take this view in the early stages of the investigation.

Compliance with the above recommendations ensures that the statutory requirements of the Local Government Ombudsman Act 1974 and Local Government Housing Act 1989 are met.

Given the timing of the report, this case we discussed as the Audit Committee review of complaints, which met in January 2020.

3.4

See Appendix 3: Public report letter of satisfaction

Training

The LGSCO has recognised our investment in staff training delivering two Children's Social Care courses during the year. It is unfortunate that the Effective Complaint Handling in Adult Social Care course scheduled for late March 2020 was cancelled due to C-19. We are currently working with the LGSCO piloting a new online course.

The complaint handling courses have been mandatory for all council staff and partner organisations since April 2018 and we continue to support and facilitate take-up of the courses as a useful tool to ensure good complaint handling and compliance by our authority.

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.

We provided a late response to LGSCO recommendations for payments of compensation in two cases, both within Housing Services. It is important for departmental leads to work closely with the Corporate Complaints team to highlight problems in meeting deadlines in the early stages of the complaint investigation. The LGSCO has made clear that issues with deadlines should be made in the early stage of the investigation so the LGSCO in turn can consider and make the appropriate changes.

While the LSGCO understands the challenges faced they will not make concessions for failure attributed to budget pressures and will continue to judge authorities in line with relevant legislation, standards, and policies.

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.
- To ensure a greater view of complaints with findings of maladministration and Injustice and upheld outcomes individual LGSCO investigation reports are shared with the Corporate Management Board; and reviewed at Political Leadership Meetings.
- Impending late responses to LGSCO recommendations will be escalated to Corporate Directors by the Corporate Complaints team.
- 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". "Under Pressure - the impact of the changing environment on local government complaints".

- Training on Effective Complaint Handling and Effective Complaint Handling Adult Social Care 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 2020 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 upheld investigations by the LGSCO, the volume of complaints that reached the LGSCO fell.
- ✓ Compliance with recommendations at 100%.
- ✓ The emphasis placed on providing a satisfactory remedy before LGSCO involvement is showing results with 5 cases appropriately remedied which is an increase of 2 from the previous year. A 29% satisfactory remedy rate is almost twice as good as similar types of authorities at 15%.
- ✓ There were no upheld cases for Education and Children services; this is an improvement on 3 cases in 2019 which included a public report.

4. **Financial implications:**

4.1 A total of £3,950 has been paid in compensation for 2019/20, a decrease of £3,490 on the previous year's figure of £7,440. However, a total of £30,560 has been repaid to complainants for costs incorrectly charged or incurred where there was fault, an increase of £28,280 on the previous year's figure of £2,280. 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 and contribution to achieving a net zero carbon Islington by 2030

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.

A Resident Impact Assessment has not been completed because there are no significant impacts on residents or others arising from this report.

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 22 July 2020.

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: 15 December 2020

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