

Report of: Director of Law and Governance and Monitoring Officer

Meeting of:	Date:	All
Audit Committee	31 January 2022	All

SUBJECT: Local Government & Social Care Ombudsman (LGSCO) Annual Review performance report 2021

1. Synopsis

- 1.1 Following the publication of the LGSCO Annual Review letter 2021, this report provides a summary of the council's performance in complaint handling from 1 April 2020 – 31 March 2021, highlighting decisions upheld by the LGSCO.

The number of complaints received (71) by the LGSCO for the authority during 20/21.

Of the 71 cases received, 17 underwent a detailed investigation, 54 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 17 cases investigated 12 cases received a decision of upheld or maladministration with injustice.

Of the 12 cases, the authority provided a satisfactory remedy to 3 cases before the complaint reached the Ombudsman.

Of the 12 complaints where compliance with the recommended remedy was recorded during 20/21, 12 recommendations were complied with.

2. Recommendations

- 2.1 To note the Local Government & Social Care Ombudsman Annual Review letter 2021 dated 29 July 2021 **See Appendix 1.**
- 2.2 To note that, of the 17 cases investigated, there were 12 upheld decisions with the remaining 5 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 2020 to 31 March 2021 (100%) complied with the Ombudsman recommendations.
- 2.5 To note that separate to the complaints investigated by the LGSCO reported in the Annual Review Letter, 4 upheld decision during the period in question (finding of maladministration) were 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 12 cases with decisions upheld by the LGSCO.

Table 1: Services and summary of decisions

People - Adult Care Services Total - Total of 5 upheld cases

Summary of complaint	Findings	Compensation Reason & Amount
19019259 The Council was at fault for the delay in its safeguarding investigation. This did not result in a significant injustice	Finding Upheld Remedy No Satisfactory remedy offered by the Council before the LGSCO involvement. Compliance Yes On time	Compensation £0 Reason Compensation Paid Learnings The Council's investigation did not identify any evidence of neglect or abuse. But the concern did result in the Best Interest Meeting's recommendation that Mrs Y's accommodation would be better at ground floor level.
19018941 The Council acknowledged it failed to provide the proper information about charging for admission	Finding Fault with injustice Remedy Write an apology for failure to provide proper information, and	Compensation Outstanding charges waived.

<p>to a care home for a period of assessment. The Council agrees to waive the charges for the relevant six-week period.</p>	<p>confirmation that it will waive the outstanding charges. Council to review its description of intermediate care to ensure that placements for which it charges are not at odds with its own definition and the law.</p> <p>Compliance Yes On time</p>	<p>Reason Compensation Paid To acknowledge the injustice.</p> <p>Formal apology</p> <p>Learnings Description of intermediate care reviewed and updated to ensure placements, which are charged are not at odds with Councils own definition and the law.</p>
<p>19018683</p> <p>The Council did not properly deal with correspondence. It failed to recognise there was potential disability related expenditure (DRE) to disregard, and does not appear to have responded to complaints about the standards of care provided to the complainant.</p>	<p>Finding Fault and Injustice</p> <p>Remedy The council to consider whether it should disregard any disability related expenditure from its assessment of complainants finances, in line with the Care and Support Statutory Guidance, to allow submission of evidence in support of any such claim. If it is decided the complainant does have valid DRE which should be disregarded, the Council should consider backdating the disregard. Offer £200 time and trouble payment.</p> <p>Compliance Yes On time</p>	<p>Compensation Refund £200.00</p> <p>Reason Compensation Paid To acknowledge time and trouble</p> <p>Learning Reminder to individual officer</p>
<p>19021053</p> <p>There were failings over a placement for respite care.</p>	<p>Finding Fault</p> <p>Remedy Satisfactory remedy, apology, offered by the Council before the LGSCO involvement.</p>	<p>Compensation £0</p> <p>Reason Compensation Paid</p> <p>Learning</p>

	Compliance Yes On time	
19011672 The Council failed to complete an adult social care assessment in 2017.	Finding Upheld Remedy Satisfactory remedy offered by the Council before the LGSCO involvement. The Ombudsman recommended the Council offer an assessment, considering any reasonable adjustments, this was rejected by the complainant. Compliance Remedied during LGSCO investigation.	Compensation £0 Reason Compensation Paid Learning

People -Children Services - Total of 0 upheld case

Environment Services - Total of 2 upheld cases

Summary of complaint	Findings	Compensation Reason & Amount
19017621 The Council failed to properly consider an application for a blue badge under the Department of Transport's hidden disabilities eligibility criteria guidance.	Finding Fault Remedy Satisfactory remedy offered by the Council following LGSCO involvement. Compliance Yes On time	Compensation £0 Reason Compensation Paid Learnings The Council acknowledged information detailing an applicant's right to review, complaint to the Council and Ombudsman was not detailed within letters. It has improved and updated procedures, as of February 2020, in line with the DfT's guidance
19015487 The Council's was at fault in the way it responded to a request	Finding Fault with Injustice Remedy	Compensation £0 The Council's compensation offer under

to separate out a resident's parking permit.	Satisfactory remedy offered by the Council before the LGSCO involvement. Compliance Remedied before LGSCO involvement.	it complaints process remedied any injustice because of its fault.
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Planning – Total of 1 upheld case

Summary of Complaint	Findings	Compensation Reason & Amounts
<p>19014128</p> <p>The council failed to take enforcement action properly and promptly about the conversion of units from business to residential use without consent.</p>	<p>Finding</p> <p>Fault with Injustice</p> <p>Remedy</p> <p>Issue a written apology. Have a clear, overall strategy setting out objectives, purposes of visits, and what steps it would take if the failure to co-operate continued. Provide updates about progress, or lack of progress. Make a decision whether there is breaches of planning consent. Review why the delay happened and act to ensure this is not repeated in the future. Create a strategy, setting out an action plan, including timeframes for action. Officers reminded of the need to provide updates to complainants about progress on their reports. Pay £350. Within 16 weeks of the final decision It will draw up an action plan for its investigation of the internal works carried out in the</p>	<p>Compensation.</p> <p>£350</p> <p>Reason Compensation Paid.</p> <p>Avoidable Injustice</p>

	rear extension and communicate this to the complainant.	
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Homes & Communities - Housing Needs - Total of 2 upheld cases

Summary of complaint	Findings	Compensation Reason & Amount
<p>19020427</p> <p>The council failed to properly consider an application to join its housing register. It failed to properly consider eligibility for overcrowding points, delayed an investigation, failed to provide updates, and delayed making a referral for an occupational therapist to assess needs.</p>	<p>Finding Fault and Injustice</p> <p>Remedy Issue an apology. Reconsider request for overcrowding points. Review the causes of the delay with the investigation of the application and act to ensure these are not repeated on future cases. Pay £200 (in addition to £125 already paid)</p> <p>Compliance Yes On time</p>	<p>Compensation £200 Apology</p> <p>Reason Compensation Paid Injustice</p> <p>Learnings</p>
<p>19019179</p> <p>The Council failed to help complainant when threatened with homelessness. The Council was at fault for failing to carry out its homeless duties in line with law and guidance. The complainant suffered unnecessary uncertainty and financial loss</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 £7,605</p> <p>Reason Compensation Paid Unnecessary uncertainty and a financial loss in the form of avoidable court costs</p> <p>Learnings Within 3 months: Issue a reminder to staff of the Council's duties under the Homeless Reduction Act 2017, provide any necessary training to new staff. Review and amend the Council's policy on when to make an offer of s188</p>

		interim accommodation in line with law and guidance. Review all current cases where the Council's practice of requiring applicants to wait for a possession order and bailiff warrant might result in similar fault causing injustice and take suitable steps to remedy any cases it finds
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Resources - Total of 2 upheld case

Summary of complaint	Findings	Compensation Reason & Amount
<p>20004625</p> <p>The Council's enforcement agents wrongly contacted a person for a debt they did not owe.</p>	<p>Finding Maladministration and Injustice</p> <p>Remedy Satisfactory remedy offered by the Council before the LGSCO involvement.</p> <p>Compliance</p>	<p>Compensation £0</p> <p>Reason Compensation Paid</p> <p>Learnings</p>
<p>20001979</p> <p>The Council's decision not to backdate the council tax single person discount to 2003.</p>	<p>Finding Fault</p> <p>Remedy Single person discount backdated to 2003.</p> <p>Satisfactory remedy offered by the Council following LGSCO initial enquiry</p> <p>Compliance Remedied before LGSCO involvement.</p>	<p>Compensation</p> <p>Reason Compensation Paid</p> <p>Learning The Council has flagged to the service the need to notify people of their appeal rights to the Valuation Tribunal.</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%
2020/2021	71	17	12	71%

The number of complaints received by the LGSCO for 2020/21 decreased by 7 cases the lowest in 6 years.

Of the upheld cases, the ombudsman has decided that it will not investigate 3 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 9 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
2020/21	12	3	25

In all cases, remedies were 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
2020/21	9	9	100

Compensation payments

	Compensation paid	£ +/-
2018/19	£7,440.00	
2019/20	£3,950.00	-3490.00
2020/21	£8,355.00	4,405.00

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.

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.

- Instances of unclear procedures for residents/service users.
- The need for procedure reviews and follow on staff training
- Poor communication with residents and services users.

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;

3.4

- 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.

3.5 **Summary**

The Annual Review letter 2021 shows a good year in the council performance in handling complaints. This year's report conclusion is as follows;

- ✓ Despite the challenges over the last year during the Covid.19 emergency there has not been 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 3 cases appropriately remedied which is a small decrease of 5 from the previous year. A 25% satisfactory remedy rate is an improvement on the previous year, 29%, and is more than twice as good as similar types of authorities at 12%.
- ✓ 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 £8,355.00 has been paid in compensation for 2020/21, an increase of £4,405.00 on the previous year's figure of £3,950. However, the majority, £7605, was for one case, reference: 19019179, Homes & Communities - Housing Needs, (The Council failed to help complainant when threatened with homelessness. The Council was at fault for failing to carry out its homeless duties in line with law and guidance. The complainant suffered unnecessary uncertainty and financial loss).

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 27 July 2021.

Appendix 2: Housing Ombudsman Complaints with finding of maladministration.

Final report clearance:

Signed by:

Peter Fehler
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Monitoring Officer

Date: 13 January 2021

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