

Community Engagement and Wellbeing
222 Upper Street
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Report of: Executive Member for Finance, Planning and Performance

Meeting of: Executive

Date: 30 November 2023

Ward(s): All

Subject: Local Government and Social Care Ombudsman (LGSCO) Annual Review performance report 2022-2023

1. Synopsis

- 1.1. Following the publication of the LGSCO Annual Review letter 2022-23, this report provides a summary of the council's performance in complaint handling from 1 April 2022 – 31 March 2023, highlighting decisions upheld by the LGSCO.

The number of complaints received by the LGSCO for the authority during 22/23 totalled 98.

Of the 98 cases received, 17 underwent a detailed investigation, 81 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 or without injustice.

Of the 12 cases, the authority provided a satisfactory remedy to 2 cases before the complaint reached the Ombudsman.

There were 6 cases with compliance outcomes 100% of cases were satisfied by the council.

2. Recommendations

- 2.1. To note the Local Government & Social Care Ombudsman Annual Review letter 2022-23 dated 19 July 2023, **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, 2 out of the 12 upheld cases, received a satisfactory remedy before the Ombudsman involvement.
- 2.4. To note that 6 out of the 6 cases with compliance outcomes during 1 April 2022 to 31 March 2023, 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, 6 upheld decisions during the period in question (finding of maladministration) were decided by the Housing Ombudsman, **See Appendix 2.**

3. Background

- 3.1. A total of 12 cases with decisions upheld by the LGSCO.
- 3.2. Shown in Table 1 (summary and learnings) the LGSCO's remit is widespread and the number of upheld decisions low, as a result there isn't a main theme running through the findings and learning. The Council is committed to its corporate strategy and priorities and where non-compliance with our priorities has been identified in the complaints, Directorates have been immediately notified for swift action to be undertaken. The complaints investigated during the reporting period relate to cases which completed the authority's complaint process from 2020 and reflective of the issues known during this time; Covid, financial and social challenges, along with pressure on Adult Social Care and Housing Services, and the administration of government grants. And in response changes undertaken by the authority including working from home. However, as shown in the learnings, the authority has recognised the issues in the ombudsman decisions and is intent on implementation of lessons learned and this is reflected by the 100% compliance with the recommendations. Complaints improvement and learning takes place on a departmental level and the Council has invested in a new complaints system, which will come in at the start of Jan 2024 and will strengthen the Council's ability to report learning from complaints on a wider organisational level.

Table 1: Services and summary of decisions

Adults Total of upheld cases - 2

Summary of complaint	Findings	Compensation Reason & Amount
<p>21017685</p> <p>The Council was at fault for the delay in its safeguarding investigation. This did not result in a significant injustice.</p>	<p>Finding</p> <p>Upheld</p> <p>Remedy</p> <p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Compensation</p> <p>£400</p> <p>Reason Compensation Paid</p> <p>Distress</p> <p>Learnings</p> <p>Review section 42 safeguarding enquiries policy and guidance to make sure that the Council contacts a deceased person's representative or next of kin with the outcome of any safeguarding referral or decision (in the same way it would if the person at risk was not deceased) and keep them informed. Remind relevant staff (including managers from the adult social care team and the complaints team) that they must contact and inform the person's representative or next of kin with the outcomes of safeguarding decisions, even if they did not make the referral themselves.</p>
<p>22003113</p> <p>The Council could not secure a residential care</p>	<p>Finding</p> <p>Fault with injustice</p> <p>Remedy</p>	<p>Compensation</p> <p>£500</p>

<p>home placement in its area.</p> <p>Failings in the personal care received while living in a care home out of Borough.</p>	<p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Reason Compensation Paid</p> <p>Distress, time and trouble.</p> <p>Learnings</p> <p>Ensure the concern about the shortage of residential care beds in the Borough, caused by the ongoing building works affecting the three residential care homes is shared with the senior officers and elected Member with responsibility in this area.</p> <p>Give a reminder to relevant social work staff and those who work with complaints about expectations around openness and transparency; that in communications with users of services and their relatives who are in the same position as the complainant, the Council should be clear about the reasons for the shortage of residential care beds and how long it expects this to last.</p> <p>Issue a reminder to staff who deal with complaints of the need to be specific about the action to be taken (and by when and by whom) when agreeing to take action to remedy a complaint.</p>
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Community Wealth Building and Resources (revenues)

Benefit/Tax Total of upheld cases - 2

Summary of complaint	Findings	Compensation Reason & Amount
<p>22000225</p> <p>The Council failed to advise the complainant to claim Universal Credit. Instead, they pursued a claim for housing benefit, to which they are not entitled, and now has rent arrears causing financial hardship and affecting a transfer request.</p>	<p>Finding</p> <p>Upheld held Fault and Injustice</p> <p>Remedy</p> <p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Compensation</p> <p>£360</p> <p>(Increase on original compensation)</p> <p>Reason Compensation Paid</p> <p>Two weeks rent, time and trouble.</p>
<p>22010622</p> <p>The complainant emailed the Council about housing benefit and asked some questions and reported some changes in circumstances. The Council did not respond to the email, but it processed the information and sent new decision notices which showed the information had been assessed.</p>	<p>Finding</p> <p>Upheld not investigated injustice remedied</p> <p>Remedy</p> <p><u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p>	<p>Compensation</p> <p>£175</p> <p>Reason Compensation Paid</p> <p>Delay</p>

Environment Total of upheld cases - 2

Summary of complaint	Findings	Compensation Reason & Amount
<p>22000592</p> <p>Council failed to provide suitable and adequate information, including about its discretion to approve large memorials, when buying a grave plot. The complainant and family were distressed by the Council's later approval of a large memorial near their grave plot.</p>	<p>Finding</p> <p>Upheld held Fault and Injustice</p> <p>Remedy</p> <p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Compensation</p> <p>£1075</p> <p>Reason Compensation Paid</p> <p>Distress, delay in complaint handling.</p> <p>Learnings</p> <p>Reviewed the Rules to: - include information about PIR, set out the 'correct' memorial sizes for different grave types, and explain how discretion will be exercised, which should include consideration of the impact on all service users, when dealing with applications for memorials that will not comply with the specified 'correct' size. Officers trained to ensure they explain and or provide written information about PIR and its potential implications for large memorials when dealing with</p>

		service users buying grave plots.
<p>22006243</p> <p>Mr X complained that they should not have to pay storage costs before the car is released by enforcement agents acting on behalf of the Council. They suffered injustice because being without a car has meant they had difficulty working and made it difficult to visit the child.</p>	<p>Finding</p> <p>Upheld held Fault and Injustice</p> <p>Remedy</p> <p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Compensation</p> <p>£1000</p> <p>Reason Compensation Paid</p> <p>Distress and inconvenience.</p> <p>Learnings</p> <p>Reviewed the policies and procedures for working with its enforcement agents. Systems in place for ensuring that records are updated when informed of a service-users change of address and that all known methods of communication with a service-user are utilised before applying storage charges for keeping a car in storage when it has been released for collection.</p>

Housing Total of upheld cases 6

Summary of complaint	Findings	Compensation Reason & Amount
<p>21018497</p> <p>The Council was delayed in issuing its decision letter regarding an application for homelessness. As a result of the Council's delays, they remained in temporary accommodation that was not suitable.</p>	<p>Finding</p> <p>Upheld held Fault and Injustice</p> <p>Remedy</p> <p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Compensation</p> <p>£500</p> <p>Reason Compensation Paid</p> <p>Delay</p>
<p>22001218</p> <p>The Council's response to reports of ongoing anti-social noise. The Council was at fault for poor communication. However, the Council was not at fault in how it decided the noise was not anti-social.</p>	<p>Finding</p> <p>Upheld held Fault and Injustice</p> <p>Remedy</p> <p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Learning</p> <p>Remind staff they should promptly communicate the decision to close anti-social behaviour investigations to the complainant.</p>
<p>22002468</p> <p>The Council delayed in responding to an official complaint.</p> <p>There was also disrepair in the temporary accommodation offered.</p> <p>There was no fault in the time it took to find the complainant permanent housing after fleeing violence or</p>	<p>Finding</p> <p>Upheld not investigated injustice remedied</p> <p>Remedy</p> <p><u>Satisfactory remedy offered by the Council before the LGSCO involvement.</u></p>	<p>Compensation</p> <p>£300</p> <p>Reason Compensation Paid</p> <p>Distress, delay in complaint handling, inconvenience from the disrepair.</p>

<p>in its payment of Council tax support.</p>		
<p>22002539</p> <p>The Council failed to promptly assess the need for care and support and Occupational Therapy and make safeguarding enquiries, consider reasonable adjustments, provide Occupational Therapy support with the final accommodation offer. The Council failed to consider the request for support with a move, respond properly to concerns about the accommodation after the move, respond to review request and the delays in its complaint handling.</p>	<p>Finding</p> <p>Upheld held Fault and Injustice</p> <p>Remedy</p> <p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Compensation</p> <p>£750</p> <p>Reason Compensation Paid</p> <p>Significant distress, time and trouble.</p> <p>Learnings</p> <p>Procedures and guidance to officers on providing information about the availability of and considering and offering support to applicants moving to accommodation offered under its Housing Act duties; procedures for referrals from other services to ASC for care and support need assessments and safeguarding enquiries; procedures for considering and recording reasonable adjustments for service users and how agreed adjustments can be accessed by all parts of the Council.</p>

<p>22003446</p> <p>Ms X complains about how the Council handled the homelessness and housing applications when she fled domestic abuse. Ms X complains the Council's actions caused further distress and uncertainty. The Ombudsman finds fault with the Council for how it communicated with Ms X about her applications. The Ombudsman also finds fault with the Council for how it communicated about personal data, medical assessments and for the Council's complaint handling.</p>	<p>Finding</p> <p>Upheld held Fault and Injustice</p> <p>Remedy</p> <p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Compensation</p> <p>£550</p> <p>Reason Compensation Paid</p> <p>Distress, time and trouble caused and the delay in not responding to the complaint.</p> <p>Learnings</p> <p>Review whether the Council needs to develop information for homelessness applicants to outline what information, including photos, may be requested. Ensure that complaints which are escalated receive a timely response.</p>
<p>22009383</p> <p>The Council failed in the way it handled Miss X's homelessness application when she sought assistance after fleeing domestic abuse</p>	<p>Finding</p> <p>Upheld held Fault and Injustice</p> <p>Remedy</p> <p>No Satisfactory remedy offered by the Council before the LGSCO involvement.</p>	<p>Compensation</p> <p>£4,050</p> <p>Reason Compensation Paid</p> <p>Distress and delay</p> <p>Learnings</p> <p>The Service will also make changes to its processes including improvement in complaint handling.</p>

3.3. **Table 2: Comparison to the Previous Year**

	Complaints received	Complaints investigated	Complaints upheld	Upheld rate
2018/2019	106	26	11	42%
2019/2020	84	24	17	71%
2020/2021	71	17	12	71%
2021/2022	89	15	11	73%
2022/2023	98	17	12	71%

The number of complaints received by the LGSCO for 202/23 increased by 9 cases this is higher than received in the previous 3 years however the upheld rate has remained in the lower 70%.

The ombudsman is being more selective on complaints put forward for investigation prioritising cases where there is public interest. They are less likely to investigate 'borderline' issues, therefore finding a higher portion of fault overall.

Recommendation from the annual letter is to compare annual statistics with similar organisations to understand performance.

Table 3: Comparison of upheld decisions with similar organisations

Authority	Investigations	Upheld decisions	Remedy
Camden	20	14 (70%)	0
Islington	17	12 (71%)	2
Hackney	28	25 (89%)	8

Overall Islington's performance is satisfactory in comparison to similar organisations.

Table 4: Satisfactory remedy provided before LGSCO involvement

	Complaints Upheld	Complaints remedied	% of upheld cases
2018/19	11	3	28
2019/20	17	5	29
2020/21	12	3	25
2021/22	11	3	27
2022/23	12	2	17

Of the upheld cases (12), the ombudsman has decided that it will not investigate 2 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.

Table 5: Compliance with Ombudsman recommendations

	Complaints recommendations for current year	Compliance with recommendations for current year	% of upheld cases
2019/20	9	9	100
2020/21	9	9	100
2021/22	9	9	100
2022/23	6	6	100

In all cases, remedies were completed within the agreed timescales.

Table 6: Compensation payments

	Compensation paid	£ +/-
2019/20	£3,950.00	
2020/21	£8,355.00	4,405.00
2021/22	£10,463.00	2,108.00
2022/23	£9,660.00	-£803

In one case for Homes and Communities, Housing Options Service the council was ordered to pay over £4,000 in compensation, which is 40% of the total compensation awarded for 2022/23.

Organisation's performance

The Local Government & Social Care Ombudsman Annual Review letter highlighted in its report the uptake of three online courses. The investment in training by the council shows our interest in good complaint handling.

The LGSCO has highlighted occasions where their investigations were delayed by the council's failure to respond on time to enquires and draft decisions. The increase in staff and improvement in performance at stage two will assist in improving response times.

There was also a backlog in the council's responses to complaints leading to people waiting far longer than they should have; the ability to seek redress when things go wrong and the council's ability to identify and learn from its mistakes as soon as practically possible. The stage two backlog was cleared in May 2023 and the approach taken by the council agreed by the LGSCO with a letter of satisfaction.

- Recruitment of more staff to clear its backlog.
- Commissioned an independent review of its complaint handling processes, which has progressed through the Complaint Improvement Programme.
- Apologised to the residents affected by the backlogs.

The LGSCO will continue to review and asks that the council reflects on the steps that can be taken to ensure the delays noted in the complaints process are reduced.

Appendix 3 - LGSCO letter of satisfaction following public report on complaint handling.

Summary

The Annual Review letter 2022 shows a good year in the council's performance regarding the outcome of complaints investigated by the LGSCO. However, there are areas of improvement needed to local complaint handling and responsiveness to LGSCO enquiries and draft decisions which has been acknowledged by the council. This year's report conclusion is as follows;

- ✓ Despite the challenges over the last year with the backlog in complaints there has not been a significant increase in upheld investigations by the LGSCO.
- ✓ Compliance with recommendations at 100%.
- ✓ The emphasis placed on providing a satisfactory remedy before LGSCO continues to show results with 2 cases appropriately remedied, which is a decrease of 1 from the previous year. This has in comparison to other authorities (Table 3) give us an advantage in overall performance.

The Corporate Complaint Service with oversight by the complaint's improvement board will ensure improvement initiatives are delivered and the service and outcomes for complainants improved. The LSGCO states "A good complaints service offers a rich source of intelligence and insight that has potential to be transformational." We aim to be an organisation that listens and learns from its mistakes. Accountability at service level, good governance and using

complaint outcomes and feedback will assist the council in improving the standard of services delivered to residents and service users.

4. Financial Implications

- 4.1 This report details the costs of compensation awarded due the fault of Islington Council in responding to complaints.
- 4.2 The Complaints Team Resident Experience budget sits within Community Engagement and Wellbeing and had a core budget of £3,488,322 during 2022/23. Compensation awarded is an unfunded budget pressure.
- 4.3 A total of £9,660 has been paid in compensation for 2022/23, a decrease of £803 since 2021/22 when £10,463.00 was paid. Compensation payments are funded directly by the service responsible for the complaint, creating an in-year budget pressure for services.

4.2 Legal Implications

4.2.1 The LGSCO is an independent body responsible for investigating complaints made against a public body where it is alleged that there has been maladministration causing injustice. Under Section 26(1) of the Local Government Act 1974, the LGSCO has the power to investigate complaints against the council where there has been:

1. maladministration causing injustice,
2. a failure to provide a service that it was the council's function to provide
3. there was a total failure to provide such a service.

Complaints to the LGSCO must be made within 12 months of the action complained of. The LGSCO will not investigate a complaint until a complainant has exhausted the council's internal complaints procedure. However, the LGSCO can dispense with this requirement in certain circumstances (eg. where it is particularly urgent that a complaint is resolved because the complainant could be made homeless).

The LGSCO has the power to make recommendations to the council following the complaint on how to improve its services and put things right for the complainant. Whilst these recommendations are not mandatory and the council does not have to accept or follow them, the Council needs to be aware of the importance of providing assurance to residents to minimise further challenges.

4.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

There are no environmental implications as a result of this report.

4.4 Equalities 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

To ensure that the Council Leader, the Chair of the Scrutiny Committee and local residents are kept informed about complaints that have been reviewed by the Local Government and Social Care Ombudsman.

Appendices:

- **Appendix 1**- Local Government and Social Care Ombudsman Annual Review letter 2022.
- **Appendix 2** - Table 1 summary of upheld decision by the Housing Ombudsman 2022.
- **Appendix 3** – Local Government and Social Care Ombudsman letter of satisfaction.

Final report clearance:

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