

## Local Government and Social Care Ombudsman Annual Report 2021-2022 (Law and Governance, Clare Pinnock)

### Synopsis of report:

To inform Members on the receipt and outcome of matters handled by The Commission for Local Administration (Local Government and Social Care Ombudsman) and the Housing Ombudsman covering the year ending 31 March 2022

### Recommendation:

None. This report is for information.

#### 1. Context of report

- 1.1 The Local Government and Social Care Ombudsman - the Ombudsman - does not normally consider a complaint which is within their remit unless a local authority has first had an opportunity to deal with the complaint itself.
- 1.2 Since June 2017 we have maintained a separate register for complaints dealt with by the Ombudsman. This is monitored on behalf of the Corporate Head of Law and Governance by a designated Link Officer in Democratic Services. We ensure that requests from the Ombudsman when investigating a complaint are dealt with in a timely manner and co-ordinate with named Officers in the relevant departments.
- 1.3 The register also includes our dealings with the Housing Ombudsman who operates slightly differently from the Ombudsman in that they tend to contact Housing Officers direct instead of liaising with a Link Officer. We have encouraged them to utilise the Link Officer and/or the named Officer in Housing who co-ordinates responses to complaints for consistency.
- 1.4 On 20 July 2022, the Ombudsman emailed us their annual report letter and statistics. These are also published on their website.
- 1.5 The Ombudsman's annual letter is attached at Appendix 'A'.

#### 2. Report

- 2.1 The feedback page on our website explains our policy and provides people with details of the Ombudsman to whom they can complain once the internal two stage complaints process has been completed.
- 2.2 In most cases, the Ombudsman will only investigate if a complainant has been directly affected by a matter (personal injustice). The Ombudsman will only deal with third parties if they have permission or a right (such as lasting power of attorney), to act on behalf of the person making the complaint.

- 2.3 Complainants should contact the Ombudsman within 12 months of the issue they wish to complain about otherwise it is, without good reason, likely to be deemed 'out of time'.
- 2.4 For the period 1 April 2021 to 31 March 2022, the Ombudsman reported that they had received 8 complaints and enquiries about this Council, this is 2 less than last year. There were 6 matters relating to Housing, and one each for Benefits and Tax, and Environmental Services & Public Protection & Regulation. We were only aware of 4 of them as the other 4 were closed after initial enquiries.
- 2.5 The Ombudsman issued 9 decisions, 5 of which have been accounted for with reference to the Register because the other 4 complaints were dealt with by the Ombudsman without reference to us as they were regarded as premature and the complainants were referred back to us. They do not appear on our register because in each case the complainant did not then raise a complaint with us.
- 2.6 The statistics don't always marry up with ours because we record from the date we receive notification of a case and the Ombudsman records the date they issue a decision.
- 2.7 The 9 decisions concern Benefits and Tax (1), Environmental Services and Public Protection Regulation (1), Housing (6) and Planning and Development (1). No decisions upheld any of the complaints.
- 2.8 The Ombudsman conducted one detailed investigation regarding a Planning Enforcement case. We received notification from the Ombudsman in July 2020. The Ombudsman asked for initial information within 5 working days and then decided to refer it to the Assessment stage where more detailed information was requested and collated by Officers in Development Management. Throughout the summer Officers collated more information, making redactions as necessary, and the Ombudsman decided to investigate in October 2020. The final decision was issued on 1 April 2021, not upholding the complaint. Members will appreciate it is often a lengthy process.
- 2.9 In 4 cases, the Ombudsman closed after initial enquiries, with no further action required. However, there was still Officer time taken by the respective business centres to produce, redact and send the requested information, via the link Officer as required, about each case to the Ombudsman in the format required and within a relatively short timeframe (usually 5 working days). For example, one Housing case consisted of 12 emails internally and with the Ombudsman but in another which was closed after initial enquiries there were 25 emails over a period of one month which illustrates the thoroughness of both the Ombudsman and Council Officers to ensure cases are dealt with properly.
- 2.10 In terms of compliance we received confirmation of full compliance with a decision that was upheld from 2020/2021 but because the remedy date was in June 2021 it appears on this year's statistics. It was reported to last year's meeting. The details are on the Ombudsman's website and we agreed to the service improvement recommended by the Ombudsman.

## Housing Ombudsman

- 2.11 Housing Ombudsman cases totalled 6 in the year ending 31 March 2022. One case was upheld, 4 were not upheld and the remaining case has been closed because the complainant had not been through our complaints process and was referred back to us and is being dealt with.
- 2.12 In the case that was upheld, we paid additional compensation to the resident having already paid some to resolve the issues raised. Members are asked to note that the complaint had three strands, one issue was outside the Housing Ombudsman's jurisdiction and the other was considered to be satisfactorily resolved.
- 2.13 The Ombudsman has announced that they will be working with the Housing Ombudsman to produce a joint complaint handling code to provide a clear framework for local authorities. The timescale for this is to be advised.
- 2.14 A breakdown by Ward and Service area for 2021/2022 for the notices we received from both Ombudsmen is shown below:

<b>Business Centre/Service Area</b>	<b>Ward and number of decisions</b>
Benefits and Tax	Addlestone North (1)
Housing	Addlestone North (2) Addlestone South (1) Egham Hythe (3) Englefield Green West (2)

- 2.15 Comparative data for Surrey authorities, including the County Council, for the year ending 31 March 2022, is set out in Appendix 'B'. Data from the report, can be found on the Ombudsman's website through its interactive 'Your council's performance' map. The map now holds data and annual letters going back to 2007, giving the annual summary of complaints, plus compliance rates and the changes which councils have made following investigations, for each local (public) authority in England.
- 2.16 The decision notices are included for each authority's profile on the interactive map. Where public reports and service improvements have been issued these are also available. The number of enquiries and complaints actually received by the Ombudsman in respect of each authority is not on the website, only individual authorities hold this information on the accompanying spreadsheet issued with the annual letters.
- 2.17 With regard to themes for the year, a column has been added to Appendix 'B' for 'lessons learned' which is effectively what the Service Improvement Notices are intended to do.
- 2.18 Throughout the year, the Ombudsman issued a number of public interest reports (43 in 2021/2022), as well as weekly decision digests on Housing, Planning and Adult Social Care. Any of particular interest or relevance are circulated to the relevant Corporate Head(s), as well as being available on a shared drive on the network.
- 2.19 National headline figures issued by the Ombudsman for the year ending 31 March 2022 include:

- 15,826 complaints and enquires received
- 2,231 cases with recommendations to put things right
- 1,848 service improvement recommendations, complied with by 99.7% of councils
- 11% upheld cases where the Ombudsman agreed with the authority's remedy
- 4,130 recommendations to remedy personal injustice
- Education and Children's Services continue to attract the most complaints (77%)
- Approximately 2/3 of all complaints received are upheld

2.20 Michael King, Local Government and Social Care Ombudsman, said:

*“One complaint can have immense power to change things for the better, and we're increasingly focusing on to how we, and the local authorities we investigate, take the learning from those complaints and improve service provision.*

*“The vast majority of councils agree to the recommendations we make and see them as common-sense ways of providing better services for people in their area. However this can only happen when councils act swiftly when they have committed to do so.*

*“Unfortunately we are seeing some councils taking longer to make those changes, which put them at risk of making the same mistakes again. In 18% of cases we found compliance was late.*

*“While I welcome the professional way in which the majority of councils continue to work with us, I would urge those authorities who are having problems to pay close attention to this final, but crucial, step in the complaints process.”*

### 3. **Policy framework implications**

- 3.1 The Council is 'customer-led' and strives for excellent customer service. Customer feedback, whether good or bad, is therefore very useful in ensuring standards are maintained and system improvements made.
- 3.2 Decision notices are promptly forwarded to the relevant Business Centre so that they can decide whether there needs to be a review of procedure or if there are ways to improve service delivery in order to avoid having matters referred to the Ombudsman even if 'no fault' has been found.
- 3.3 Since 2019/2020, the Key Performance Indicator for Ombudsman matters reported to Corporate Management Committee includes cases where a remedy was required. For the year ending 31 March 2022 there were no complaints from the Ombudsman and one from the Housing Ombudsman.
- 3.4 The Ombudsman recommends that Councillors take an active role in having an overview of cases, hence this annual report. They also have a section on their website which makes suggestions about questions Councillors can ask

with regard to different services. For example, the Homelessness Reduction Act, Waste and Recycling and the Local Planning Process.

#### **4. Resource implications**

- 4.1 The Ombudsman register and Link Officer role is carried out using existing resources in Law and Governance. Liaison takes place with the relevant Officers in Housing to record Housing Ombudsman matters.

#### **5. Legal Implications**

- 5.1 This report fulfils the Council's Statutory duty under section 5(2) of the Local Government and Housing Act 1989.
- 5.2 If a Local Authority is the subject of a public interest report issued by the Ombudsman, there is a statutory requirement on the Monitoring Officer to publish a public announcement in the press, as well as to consider the report at a high-level of decision making at the Council; which is this Committee.
- 5.3 Not a statutory requirement, but the Ombudsman has observed that some councils have also proactively shared such reports with residents through social media or newsletters.
- 5.4 In the last nine years, this Council has not had any public interest reports issued.
- 5.5 As stated in this report, there was one case of maladministration and injustice found in the year ending 31 March 2021 (Housing Ombudsman).

#### **6. Equality implications**

- 6.1 The Council is required to have due regard to its public sector Equality Duty.
- 6.2 The Council's Duty is stated under the Equality Act 2010 and is to have regard to the need to:
- a) eliminate unlawful discrimination, harassment or victimisation
  - b) advance equality of opportunity between persons who share a Protected Characteristic and persons who do not share it
  - c) foster good relations between those who share a relevant characteristic and those who do not
- 6.3 Although Officers endeavour to collect data that might enable us to identify whether a complainant, or satisfied customer for that matter, has a 'protected characteristic' for equality monitoring purposes, in practice hardly anyone is prepared to divulge such information.
- 6.4 From a review of the matters referred to the Ombudsman for the year ending 31 March 2022 it is indicated that the protected characteristic of disability was engaged in four cases, one of which also engaged 'age'.
- 6.5 The Ombudsman issued a focus report in August 2022 on improving access to council services for people with disabilities. This arose from a case at Ribble Valley local authority where the lack of a policy on recording disability and making reasonable adjustments under the Equality Act resulted in a

client's record not highlighting particular needs, those needs were then unmet causing the client distress.

- 6.6 This illustrates the need for councils to have a policy to check whether people have disabilities, show how they might accommodate any adjustments that might need to be made to enable people to access services and, importantly, keep a record of those adjustments.

**(For information)**

**Background papers**

Relevant correspondence held on Law and Governance files including internal departmental emails and between the Council and the LG&SCO.