
Report to: Audit and Governance Committee
Date of Meeting: 21 September 2016

Subject: Local Government Ombudsman Complaints 2015/16
Wards Affected: All

Report of: Head of Regulation and Compliance

Is this a Key Decision? No
Is it included in the Forward Plan? No
Exempt/Confidential No

Purpose/Summary

To present members with the Local Government Ombudsman's Annual Review Letter 2016

Recommendation(s)

To note the report.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		x	
2	Jobs and Prosperity		x	
3	Environmental Sustainability		x	
4	Health and Well-Being		x	
5	Children and Young People		x	
6	Creating Safe Communities		x	
7	Creating Inclusive Communities		x	
8	Improving the Quality of Council Services and Strengthening Local Democracy	x		

Reasons for the Recommendation:

It is important for effective corporate governance for members to have information about the number of complaints to the Local Government Ombudsman about the Council and the outcome of the same.

Alternative Options Considered and Rejected:

What will it cost and how will it be financed?

(A) Revenue Costs

Any costs arising from corrective action in response to upheld complaints has been, or will be, met from existing revenue budgets. The total value of the required financial compensation for the cases referred to in this report is in the region of £13K.

(B) Capital Costs

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial	
Legal	
Human Resources	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact of the Proposals on Service Delivery:

A better understanding of how the Council interacts with the citizens of the borough will aid improvements in service delivery throughout the council.

What consultations have taken place on the proposals and when?

The Head of Regulation and Compliance is the author of the report (LD 3586/16)
The Head of Corporate Resources (FD4303/16) has been consulted and notes that cost of resolving the identified complaints will be found within existing revenue budgets.

Implementation Date for the Decision

Immediately following the Committee meeting.

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Background Papers:

Local Government Ombudsman Review of Local Government Complaints 2015-16:

<http://www.lgo.org.uk/assets/attach/3915/Local%20Gov%20Report%202015-16%20final%2027.07.2016.pdf>

1. Introduction

1.1 The Local Government Ombudsman (LGO) is the independent body responsible for investigating complaints made against public bodies where it is alleged that there has been maladministration causing injustice.

1.2 Examples of maladministration may include:

- Excessive and unreasonable delay.
- Making misleading or inaccurate statements.
- A public body's failure to follow its own specified procedures or to follow statutory procedures.
- Failing to properly consult or liaise.
- Failing to provide information when requested to do so.
- Not keeping adequate records.
- Failing to investigate or reply to a query from a member of the public

1.3 Once maladministration has been established, it must be confirmed that it has led to personal injustice for the complainant. Injustice can include:

- The time and trouble involved in pursuing a complaint against a public body.
- The loss of a right or service, which the complainant is legitimately entitled to.
- Costs associated with pursuing the complaint.
- Inconvenience, worry, distress and hurt feelings.

1.4 It must also be proved that the injustice was caused by the public body and was not merely incidental.

1.5 Remedies recommended by the LGO include requiring local authorities to:

- Apologise to a complainant
- Offer financial compensation. This may be appropriate where there is no practical remedy or where the complainant has suffered financial loss as a result of the injustice
- Review the procedure that led to the injustice.
- Offer additional training for public body staff
- Reconsider a decision.
- Pay money where the injustice is that money (such as housing benefit) has not been paid

- Consider alternative specific remedies where the injustice has been caused by the loss of a non-monetary benefit, such as enjoyment of a property where the public body has failed to deal with noise nuisance in the area
- Make payments to the complainant in recognition of the time and trouble involved in pursuing the complaint

1.6 In July 2016 the Local Government Ombudsman Dr Jane Martin, published her Review of Local Government Complaints for 2015-16 and in June sent her 'Annual Review Letter 2015' to the Council. A copy of the Annual Review Letter can be found in Appendix 1.

1.7 The review of all local government complaints states:

"The headline messages from this year's statistics are:

- *we received 19,702 complaints and enquiries, which is a similar level to the previous year*
- *we upheld 51% of detailed investigations, which has increased from 46% the previous year*
- *the area most complained about is education and children's services*
- *we also saw the biggest increase in percentage terms (13%) in complaints and enquiries about education and children's services.*

We know, however, that numbers alone do not tell everything about the attitude towards complaints and how they are responded to locally. Arguably of more importance is to understand the impact those complaints have on people and to learn the lessons from those complaints to improve the experience for others.

This year we are able to publish more information about the recommendations we make to put things right when people have suffered. We made 3,529 separate recommendations to remedy injustice. These recommendations include actions for the local authority to take to remedy injustice for individuals and to prevent injustice for others by improving practice.

Our investigations can also provide local authorities with the reassurance that they have carried out a fair investigation of a complaint and satisfactorily offered to put things right, before the person decided to come to us. Our annual review letters to local authorities, published in tandem with this report, show the number of upheld cases where we were satisfied with the remedy the local authority had proposed. They also show how often each authority complied with our recommendations – we welcome that 99.9% of recommendations were complied with across all local authorities last year.

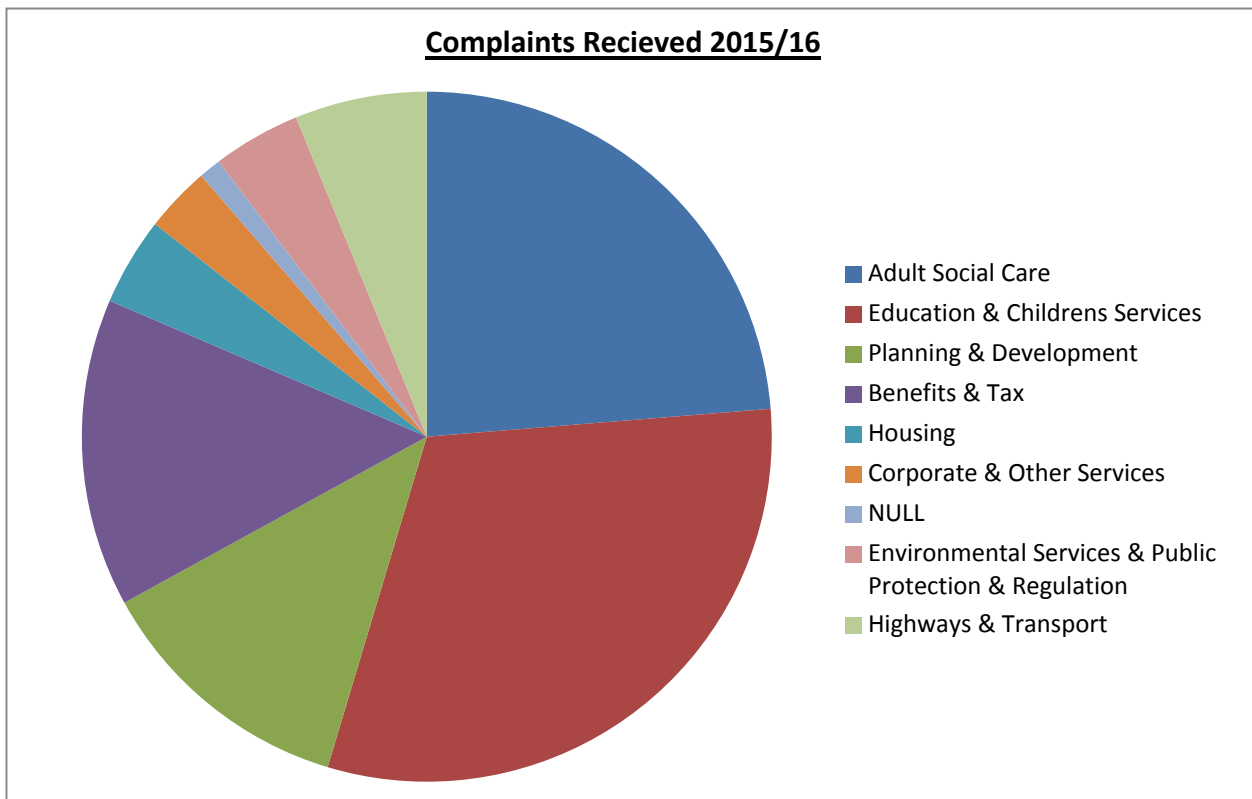
The LGO is the final stage for complaints – the person affected must have gone through their local authority’s complaints process before coming to us for an independent review of the case. So in relation to the many thousands of exchanges happening daily between local authorities and people in their areas, our complaints are a relatively small proportion; however each one represents a problem that was not put right locally, or an experience that drove the person to pursue their complaint with us.“

2. Sefton

Sefton’s Annual Letter provides information about complaints received in relation to Sefton as follows:

Complaints and enquiries received in 2015/16:

Adult Care Services	Benefits and Tax	Corporate and other Services	Education and Children’s Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
24	14	4	30	4	6	4	12	1	99



Complaints and Enquiries Received for Sefton

2015/16	99
2014/15	72
2013/14	76

Decisions Made in 2015/16:

					Detailed Investigations		
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
7	1	52	22	8	12	60%	102

Details of 12 Upheld Complaints

Category	Summary of Compliant	Outcome
Adult Care Services	The Council delayed in deciding to pay for adaptations at Mr B's home to allow his mother in law, Ms C, to move there. The Council also fettered its discretion by failing to consider offering Ms C any discretionary housing assistance to meet the extra costs of the works above the £30,000 disabled grant limit. It wrongly told Mr B he would have to pay the extra costs without exploring any other options or cheaper schemes. Mr B experienced increased carer's strain and was caused uncertainty, distress and considerable time and trouble Pursuing this matter. Ms C remained in a property which did not meet her needs for longer than should reasonably have been expected.	The Council agreed to the Ombudsman's recommendations that it apologises in writing to Ms C and Mr B, pays Ms C £1,000 for her distress and pays Mr B £4,000. It also agreed to review its procedures to prevent a blanket policy approach.
Adult Care Services	The Council properly assessed whether Mr J needed further disabled adaptations in his home to meet his needs. However, the Council failed to provide Mr J with a written copy of the assessment document after it assessed him. This meant Mr J lost an opportunity to comment on what the Council had formally recorded about his needs.	The Council agreed to the Ombudsman's recommendation that it apologise in writing to Mr J for failing to provide him with a copy of the assessment document.
Adult Care Services	The Council failed to advise the Ombudsman that it was pursuing Mrs X for unspent Direct Payments for her nephew when the Ombudsman investigated her previous complaint. Mrs X has been put to considerable time and trouble pursuing this and her previous complaint so the Council should waive the outstanding debt it is seeking to	The Council should waive the £316.53 in recognition of the time and trouble Mrs X has been put to pursuing these complaints.

	recover.	
Adult Care Services	Mrs A was unhappy when the Council reduced the hours of educational provision for her son D, who is disabled. This meant she would have to care for him for most of the week, which she would find very difficult.	The Council agreed to increase its provision for D.
Adult Care Services	The complainant, Mr X, complains on behalf of both of his uncles. Mr X complains about the Council's decision to significantly reduce the support Mr A and Mr B will receive. Mr X says the Council failed to carry out a proper assessment and did not properly take the information from the family into account.	The Council agreed to carry out a reassessment of Mr A and Mr B's needs.
Adult Care Services	Ms B complains the Council refused to pay for her mother's residential care from 15 December 2014 until 5 February 2015.	The Council agreed to pay for her care in the sum of £2,303.
Adult Care Services	The Council's safeguarding enquiry into Mr B's adult fostering placement was generally not at fault, but it did not fully address the concerns raised by his parents about how his carer spent money on his behalf.	There is evidence of some fault in the Council's safeguarding investigation. However, the information available supports the Council's findings that Mr B did not suffer significant harm and has not experienced personal injustice. The Council agreed to address the problems identified with financial arrangements for service users in its adult fostering placements.
Education & Children's Services	The complaint was about child social care interventions including child social care's decision to place two children under child protection plans.	There was evidence that child social care did not communicate as clearly and quickly as it should

		<p>about decisions and social work practice.</p> <p>This caused Mr and Mrs A avoidable distress. Also the organisation of Core Group meetings was poor. To remedy fault involved in this complaint it was recommended and the Council agreed to pay Mr and Mrs A £400 for distress to feelings caused by fault in the way decisions were communicated and poor organisation of Core Group meetings.</p>
Education & Children's Services	There was fault in the way the Independent Admission Appeal Panel considered Mrs X's appeal.	The Council agreed to offer Mrs X a fresh appeal with a different panel.
Education & Children's Services	The Council's failure to include relevant information in the pack for a school admission appeal was fault.	The fault did not cause injustice.
Housing	Mr and Mrs B, say their council mortgage was not paid off by 2004 as they had expected, given they have not missed any payments and have adjusted their payments to reflect interest rate changes, so they complain the Council has overcharged them.	The Council offered to put Mr and Mrs B back in the position they would have been if their mortgage loan had cleared in 2003/4 when it should have done. It has agreed to repay them the difference between what they have paid and what they should have paid, plus interest making a total of £4,396.
Benefits & Tax	The Council dealt incorrectly with Mr and Mrs X's claim for council tax benefit, it made an unreasonable referral to its fraud team and did not ask for	The Council agreed to pay Mr and Mrs X £1,000 for the unnecessary actions

	<p>information at the right time. Its fault in dealing with this claim led to unnecessary and unreasonable court orders, bailiff's referrals and threats of bankruptcy and prison. The Council threatened bankruptcy without investigating if Mr and Mrs X were vulnerable. The Council did not respond properly when Mr and Mrs X told it of their ill health and their correct belief they qualified for council tax benefit. The Council caused substantial injustice to Mr and Mrs X.</p> <p>The Council does not provide any information about how it allocates late council tax payments. This also caused Mr and Mrs X injustice as they did not know what happened to payments they made and could not understand why the Council said they owed council tax from 2009 onwards.</p>	<p>taken against them and the distress they have suffered, remove all court and other costs from the council tax account from 2008 onwards, apologise to Mr and Mrs X, and provide accessible public information on its website or by leaflet about how the Council deals with late payments or payments that differ from the instalment amount.</p> <p>The Council also agreed to undertake appropriate training for relevant staff and review its procedures for gathering evidence to support claims for council tax support.</p>
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3. Comparative Data for Merseyside Authorities in 2015/16

Authority	Total Complaints and Enquiries Received	Upheld	%
Knowsley	28	4	14%
Liverpool	168	21	12.5%
Sefton	102	12	12%
St. Helens	34	4	12%
Wirral	96	21	22%

Appendix 1