

Committee: Governance, Audit and Performance
Committee

Date:
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Title: Local Government Ombudsman Report
2021/22

**Report
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Summary

1. The annual review letter has been received from the Local Government Ombudsman summarising the complaints relating to the Council's services dealt with by the Ombudsman's office for the year ended 31 March 2022.
2. This report also details the complaints and compliments received by the Council in the same period.

Recommendations

3. To note the contents of the Ombudsman's annual review letter and the position with regards to complaints and compliments for the year ended 31 March 2022.

Financial Implications

4. The Council was found at fault in relation to two complaints and required to apologise and pay compensation. The total amount of compensation for both complaints totalled £400.00. A summary of the complaints and the Ombudsman's findings are included in paragraph 10.

Background Papers

5. The papers referred to by the author in the preparation of this report are mentioned in the body of the report and are already published.

Impact

- 6.

Communication/Consultation	Review reports are published on the Council's and the Ombudsman's websites
Community Safety	N/A
Equalities	N/A

Health and Safety	N/A
Human Rights/Legal Implications	Residents and users of the Council's services are able to complain to the Ombudsman about the handling of complaints where the complainant is dissatisfied with the service or response received, within time limits
Sustainability	N/A
Ward-specific impacts	All wards
Workforce/Workplace	N/A

Situation

7. The Council's annual review letter has been received from the Local Government & Social Care Ombudsman and is attached at Appendix A. It lists 19 complaints received and these were made up as follows:

Benefits & Tax	3
Corporate & Other Services	5
Environmental Services & Public Protection & Regulation	2
Housing	1
Planning & Development	8
Total	19

8. The decisions in respect of the complaints are summarised below:

Upheld	2	Details provided in paragraph 10 of this report
Not upheld	2	1 no maladministration found 1 no worthwhile outcome to be achieved by investigating
Closed after initial enquiries	9	2 complaints there was no alleged maladministration or service failure 3 complaints had the right to refer to other entities 2 complaints were not deemed to have a worthwhile outcome achievable by an investigation

		1 complaint about the council's handling of its finances was deemed to affect most of the people in the council's area and not an individual 1 complaint was out of the jurisdiction of the Ombudsman
Referred back for local resolution	4	3 complaints were prematurely submitted 1 complaint had previously been considered
Advice given	2	Complaints were deemed to be about third parties
Total	19	

9. Thirteen of the 19 complaints detailed above had exhausted the Council's complaints procedure before referral to the Ombudsman.
10. As previously mentioned, there were two cases where the Council was found at fault and was required to apologise and pay compensation, the full decisions are available on the Ombudsman's website although summarised below:
- a. Mr C complained about the way in which the Council handled his temporary event notice (TEN) and the advice provided about his party during a period of Covid-19 restrictions. He complained that the Council failed to provide the correct information and advice about the party and misled Mr C about whether he could hold the party. Mr C said that the Council's actions meant the party plans were changed at the last minute which cause him financial loss and significant distress.

The Ombudsman found fault with the Council for the way the TEN application was handled and the way the Council communicated about the party. Mr C took the approval of the TEN as confirmation that his party could go ahead. The Investigator concluded, that having read the emails and listened to the calls, that he could understand why Mr C felt his party could go ahead from both a licensing and Covid-19 compliance perspective. The Council should have told Mr C the party was likely to be unlawful under Covid-19 restrictions as soon as it became aware and missed opportunities to provide Mr C with clear and timely advice when he made the TEN application.

The investigator noted that the party was arranged for a time when Covid-19 restrictions were in place which were subject to review and change at any point, there could have been a last-minute change for other Covid-19 related reasons.

The Council advised, later than it should have, that the party could not go ahead as planned. The investigator noted the difficult situation Mr C

was in when faced with having to change or cancel his party, although made clear it was his decision to go ahead with the party,

The investigator concluded that the injustice was not the cost of the party and the time Mr C spent organising it, as the party was not cancelled. It just did not happen in the way Mr C wanted or had planned. The investigator said they were left with the uncertainty of what may have happened if the Council had recognised the issues and communicated them to Mr C earlier. The investigator determined that the Council caused Mr C distress because of the way it communicated with him about the party and agreed an action for the Council to apologise to Mr C and pay £250 in recognition of the distress it caused him.

- b. Mr B complained about the way the Council decided a planning application for development near his property. In particular that the Council had failed to properly consider the impact of the development on his amenity and failed to follow the Council's planning guidance.

Mr B said the Council failed to reconsult him, other neighbours and the highways team on significant amendments to the plan, failed to ensure the development complies with the Essex Design Guide in terms of separation distances, failed to correctly assess the affected window (and loss of amenity) in Mr B's property and failed to ensure the Planning Committee considered the application. Mr B said the approved development affected his privacy and caused him significant distress.

In response to the investigator's enquiries the Council acknowledged it would have been better to have notified neighbours of the revised scheme. Although the Council considered it made a sound decision, it agrees the case officer's justification in the delegate report is confused and compounded by the incorrect reference to an absence of first floor windows in Mr B's property. The Council explained there were delays in responding to Mr B's complaint due to staff leaving. The Council also suggested it should issue an apology and make a time and trouble payment.

The investigator agreed with the Council's view that while its decision not to reconsult neighbours on the amended plans was justifiable, it would have been better to have done so. Whilst this may have caused Mr B some frustration, he and other residents found the amended plans and submitted their objections which were considered by the Council. The investigator considers the injustice caused by this fault was minimal.

The investigator agreed the case officer's report misrepresented the windows in Mr B's property and incorrectly considered the alleged absence of first floor windows mitigated the overlooking. This was deemed a fault by the investigator. It caused Mr B frustration and distress as he did not understand why the decision had been made in

contravention of the Essex Design Guide. In conclusion the investigator did not consider the outcome would have been different had the Council described Mr B's property correctly. While the Council was aware this was less than 15 metres, the additional changes to the windows themselves further reduced the impact to an acceptable level, because overlooking from those windows was physically very difficult and less likely due to the internal layout changes. These mitigations are allowed for in the Essex Design Guide.

The investigator agreed that the Council took too long to respond to Mr B's complaint. He welcomed the Council's offer to make a time and trouble payment to Mr B to recognise the injustice he was caused by the incorrect description of his property. The Council had to formally apologise, and Mr B was awarded a payment of £150.

11. In both these cases the letters of apology were sent from the Chief Executive. Payment in respect of the complaint at 10a was declined by the complainant, although the Ombudsman concluded the Council had completed the remedy to the best of its ability. In the case of the complaint detailed in paragraph 10b, the time and trouble payment was accepted.
12. In the previous annual review letter for the period 2020/21 there were 4 complaints received. One was closed because the complainant had the use and availability of appeal rights and therefore fell outside the jurisdiction of the Ombudsman. One complaint was undecided at the time and now appears in this report at paragraph 10b. One complaint was not investigated because it was unlikely that a further investigation to that which the Council had already carried out would lead to a different outcome. The final complaint was in relation to a disabled facilities grant which was subject of a report to Council due to the financial consequences.
13. The Housing Ombudsman does not issue annual letters, having checked with the service, they report two complaints for the 2021/22 period that have been investigated by the Housing Ombudsman. The first relates to the Council's handling of a complaint regarding a boundary hedge maintenance dispute where the Council was found at fault and the tenant awarded a total of £250.00 for poor communication and complaint handling. The second complaint relates to a leaseholder boundary dispute which is ongoing.
14. Attached at Appendix B is a summary of complaints received by the Council during the 2021/22 period to enable a contrast to be drawn between the number of overall complaints referred for internal investigation and the number then referred onwards for investigation by the Ombudsman.
15. These complaints are reviewed quarterly by the Council's Corporate Management Team in order to share any lessons learnt. In general these are small in number, the main reason for complaints would appear to relate to either a delayed response or a lack of communication from officers.
16. It is acknowledged that the number recorded as 'complaints' does not represent the genuine level of complaints received by the Council. Issues of dissatisfaction raised directly with services are often apologised for and

resolved without being formally recorded. Therefore, it is reasonable to assume the recorded complaints reflect 'stage 2' complaints where the matter has been escalated to a senior service manager.

17. Similarly, the level of recorded compliments will be an under representation of the numerous occasions residents and customers recognise the excellent work of our staff.

Risk Analysis

18.

Risk	Likelihood	Impact	Mitigating actions
1 – full investigation of complaints referred to the Ombudsman is always undertaken	2 – in cases where fault has been found it might be necessary to provide a remedy to satisfy the complainant and in some cases changes to internal procedures followed by service areas	2 – where a change of process is required to meet a recommendation from the Ombudsman it may have some impact on service provision	As recommended by the Ombudsman – sometimes a review of internal practices may be required if significant failings in service provision are identified

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project