

## **Slough Borough Council**

<b>Report To:</b>	Audit and Corporate Governance Committee
<b>Date:</b>	28 <sup>th</sup> September 2022
<b>Subject:</b>	Local Government & Social Care Ombudsman (LGSCO) upheld complaints. Statutory & corporate complaints summary of 2021-2022
<b>Chief Officer:</b>	Stephen Brown – Corporate Operations Officer Sarah Wilson – Monitoring Officer
<b>Contact Officer:</b>	Finbar McSweeney - Complaints, Casework & FOI Lead
<b>Ward(s):</b>	All
<b>Exempt:</b>	NO
<b>Appendices:</b>	Appendix A – Summary of upheld LGSCO complaints received 1 April 2020- 31 March 2022 Appendix B – LGSCO Annual Review Letter July 2021 Appendix C – LGSCO Annual Review Letter July 2022 Appendix D – Statutory and Corporate Complaints Report 2021-22

### **1. Summary and Recommendations**

This report sets out a summary of the upheld complaints determined by the LGSCO in 2020-22 and a summary of statutory & corporate complaints during 2021- 2022.

#### **Recommendations:**

Committee is recommended to:

- (a) Note the summary of upheld decisions by the Local Government and Social Care Ombudsman during 1st April 2020 - 31 March 2022 (Appendix A).
- (b) Note the summary of statutory and corporate complaints during 1<sup>st</sup> April 2021 – 31 March 2022.
- (c) Note the themes identified and the actions being taken to respond to these themes.

#### **Reason:**

- 1.1 Complaints are a free and valuable source of information and insight to enable the Council to focus on improvements to our processes and service delivery. This reports provides the Committee with information on complaints received in the past two years. In future the Council will report to the Committee at least annually.
- 1.2 Where complaints are upheld by the LGSCO, they recommend ways for authorities to put things right when faults have caused injustice. Their recommendations try to put individuals back in the position they were in before the fault. The LGSCO also monitor

authorities to ensure compliance with their recommendations. Appendix A includes LGSCO recommendations for each upheld complaint.

1.3 In 2020-21, the LGSCO were satisfied that the council had successfully implemented agreed recommendations.

1.4 In 2021-2022, the LGSCO were again satisfied that the council had implemented agreed recommendations.

1.5 During the reporting period 2021-22, the LGSCO determined three cases of injustice regarding Slough Children First not investigating complaints on behalf of 3 young persons which were more than a year old from a 3rd party.

## **2 Alternative options considered and not recommended**

2.1 The council could report individual findings of maladministration on a case by case basis. This is not recommended as it does not provide an opportunity to identify themes and learn from complaints, even when they are not upheld by the LGSCO.

2.3 By publicly reporting on complaints data and learning, the Committee has an opportunity to scrutinise how this data is used to inform the Council's risk management procedures and to ensure continuous improvement. This option is recommended as it allows the council to learn from complaints to continuously improve its services and increase resident satisfaction.

## **Commissioner Review**

The report was reviewed by Commissioners who had no observations to make.

## **3 Background**

### **LGSCO data**

3.1 The Council currently operates a three-stage corporate complaints procedure:

- At Stage 1 the departmental manager deals with the complaint with the aim of resolving the complaint.
- At Stage 2 complaints which are not resolved at Stage 1 are reviewed by the relevant Head of Service or above.
- At Stage 3 complaints which are not resolved at Stage 2 are reviewed by the chief executive. This is the final stage of the corporate complaints process.

3.2 If the complainant remains dissatisfied after going through the Council's corporate complaints procedure, they may escalate the matter to the Local Government and Social Care Ombudsman (LGSCO). Where the matter relates to complaints about social housing then it falls under the jurisdiction of the Housing Ombudsman rather than LGSCO.

3.3 There are separate statutory processes in relation to social care complaints for Adult's and Children's services (termed 'statutory social care complaints'). Once the statutory procedure is exhausted the complainant has the right of recourse to the LGSCO.

3.4 The LGSCO reserves the right to accept and investigate a complaint even if it has not been through either our corporate or the statutory complaints procedures. This can occur when there are urgent issues (such as imminent homelessness), vulnerability, or if the complainant shows that they have complained to the council but have not received a response. However, in general the LGSCO expects complainants to utilise the internal complaints process first to give local authorities the opportunity to resolve the matter directly.

3.5 This report covers two reporting periods:

- 1 April 2020 - 31 March 2021; and
- 1 April 2021 - 31 March 2022

3.6 Every July the LGSCO writes an annual review letter to every local authority which outlines the complaints and enquiries they have dealt with during the previous financial year. The annual letters received by Slough Borough Council for 2020-21 and 2021-22 can be found in Appendix B and C.

3.7 Officers have reviewed the annual letters from the LGSCO and noted that;

- In 2020-21, 1 of 2 investigations conducted by the LGSCO were upheld. Whilst the letters refer to percentages, the figures are based on a very small number of cases and therefore using percentages is potentially misleading. The figure compares well against the average figure of 63% (see appendix B) for similar authorities, but again the small number of cases makes this comparison potentially misleading.
- In 2021-22, 4 of 5 investigations conducted by the LGSCO were upheld. This compares to an average of 64% in similar organisations. Three of the investigations related to one complaint concerning three individuals. The complaint related to services delivered by Slough Children First.
- In all 5 cases over the two year period the LGSCO was satisfied that the council had successfully implemented agreed recommendations.
- Since 2021-22 the LGSCO noted general concerns across all local authorities regarding the erosion of effective complaint functions. The Ombudsman noted that they are working to develop a new programme of work that will utilise complaints to drive improvements in both local complaints systems and services. This is something Slough Borough Council will be concentrating on starting with a review of the complaint process with a view of changing from a 3 stage to a 2 stage corporate complaint process as well as improving the internal reporting to CLT to ensure corporate leadership of complaints.

3.8 The table below shows the full breakdown of the outcomes of LGSCO complaints received during these two reporting periods (2020-21 and 2021-22) and comparison against the previously reported year (2019-20). Note: this includes cases where the LGSCO determined there was no further action and they chose not to progress the complaint to an investigation as, for example, the complaint has not been through the corporate or statutory process, or the matter is outside the jurisdiction of the LGSCO.

LGSCO decision	Number of Complaints (% of total)							
	2019-20		2020-21		2021-22			
Investigated - Upheld	5	9%		1	4%		4	8%
Investigated –Not upheld	5	9%		1	4%		1	2%
No further action	45	82%		25	92%		46	90%
<b>Total number of LGSCO complaints reported</b>	<b>55</b>	<b>100%</b>		<b>27</b>	<b>100%</b>		<b>51</b>	<b>100%</b>

3.9 There was a significant increase in the number of Ombudsman cases received from 2021-22 compared to 2020-21. In March 2020 the LGSCO suspended casework for approximately three months due to the pandemic. This is likely to have impacted the number of cases and decisions they were able to reach and cases that they were able to fully investigate, and the data should be interpreted with this in mind.

Of the upheld complaints received by the LGSCO in 2021-22, three were in relation to Children’s Services (1 complaint in relation to 3 individuals) and the other a Planning matter. Further detail is provided in Appendix A.

3.10 This trend appears in-line with the national picture; the LGSCO’s [Review of Local Government Complaints 2020-21](#) the LGSCOs Review of Local Government Complaints 2020-21 noted that there was an increase in the uphold rate of all categories of complaint, other than environmental services and protection, which typically include complaints about refuse and recycling, noise, pollution and licensing.

### Internal complaints data

3.11 In the period 1<sup>st</sup> April 2021- 31<sup>st</sup> March 2022 the council received and investigated 898 complaints at stage 1, 74 at stage 2 and 3 at stage 3. Of the stage 1 complaints received 44 were investigated under the statutory adult social care complaints process. The table below shows a breakdown of the number of complaints received by stages over the last 2 financial years. (Please refer to Appendix D for a detailed analysis of the Council’s Statutory and Corporate Complaints 2021-22).

	2020/21	2021/22
Stage 1	701	898
Stage 2	62	74
Stage 3	7	3
Total Complaints handled	770	975

3.12 42% of the complaints received were in relation to Osbornes our Housing Repairs Management partners, 15% were for Revenues and Benefits, 7% for Customer Services, 5% for Adult Social Care and 4% for Environmental services, the remaining were widely varied.

3.13 The main root causes for complaints were largely related to capacity and broadly centred on;

- Delays & Timeliness- This category relates to the time taken to carry out a service. The Council always seeks to avoid delays in service delivery however as many of the services we undertake are demand led, this is not always possible. Although each service would seek to prioritise more urgent areas or ensure the most urgent cases and people with the highest levels of need are prioritised, this can understandably still be dissatisfying for members of the public whose concerns are not prioritised.
- Communication- Lack of communication- these are generally between officers, teams or departments within the Council. Where it is established, the council accepts fault and both acknowledge and apologise for any inconvenience caused.
- Quality- These complaints relate to services provided directly by Council staff or relate to the quality or conduct of staff employed by service partners. Quality issues within any area services are addressed through the relevant line managements. Quality issues with provider services are addressed through the Council's contract management procedures.

3.14 65 % of all complaints were partially or fully upheld, this is in line with the percentage of upheld cases investigated by the LGSCO countrywide for 2020-21, and their report for 2021-22 has not yet been published. Where time delays or lack of communication were established these were mostly upheld.

3.15 Some of the learnings we derived from complaints resulted in; changes to processes and procedures, additional training where a need was identified, feedback to staff individually and in team meetings, reminders to staff and partners (Enforcement agents, Osbornes, e.g.) of Standard Operation Procedures, adjustments to working practices, improvements to contract management, and more transparency and management of customer expectations around service delivery and capacity.

## **Learning and improvements**

Complaints operate a 3 stage process and will be looking at reducing this to 2 stage. The LGSCO complaints highlight the need for quality of complaints instead of time being spent on various stages. Officers are liaising with scrutiny members in relation to setting up a task & finish group to look at best practice guidance and the LGSCO's training programme to enable recommendations to be made to cabinet on improving the complaints process.

Whilst data has been reported previously, this has sometimes focused on the number of complaints and timeliness of responding as opposed to focusing on capturing learning and trends. The Monitoring Officer is responsible for reporting maladministration to members and the post holder has taken a lead on reviewing all cases which have been referred to the LGSCO to ensure the Council responds in an open and transparent manner and that options for early resolution is explored.

## **4. Implications of the Recommendation**

### **4.1 *Financial implications***

Payment of compensation is made on individual cases as directed by the LGSCO. Below shows the compensations awarded by the LGSCO.

2020-21 Planning - £2,150

2021-22 Planning - £2,000

### **4.2 *Legal implications***

4.2.1 The LGSCO is the independent body responsible for investigating complaints made against local authorities where it is alleged that there has been maladministration causing injustice. Under the Local Government Act 1974, the LGSCO is responsible for investigating complaints against council and some other authorities, investigating complaints about adult social care providers from people who arrange or fund their own adult social care and for providing advice and guidance on good administrative practice.

4.2.2 The expectation is that a complainant will utilise a local authority's complaints process prior to referring the matter to the LGSCO, although the LGSCO can dispense with this requirement in specific cases. Complaints can be made by a member of the public, their authorised representative, a personal representative of a deceased person or a person deemed suitable to act on behalf of a member of the public if that person is unable to authorise them.

4.2.3 The LGSCO has the power to make recommendations to a local authority following a complaint on how to improve its services and to put things right for the complainant. The recommendations are not mandatory and the local authority does not have to accept or follow them. Remedies recommended by the LGSCO can include an apology, financial compensation, a review of procedures, staff training, and reconsideration of a decision and payment of money where this should have been paid.

4.2.4 Maladministration is not defined in the legislation, however case law has held that it includes bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude and arbitrariness. Examples of maladministration include excessive or unreasonable delay, making misleading or inaccurate statements, failing to follow a specified procedure, failing to consult or liaise, failing to provide information when requested to do so, not keeping adequate records and failing to investigate or reply to a query from a member of the public. The LGSCO is concerned with the manner in which the decision was reached, as opposed to the actual decision.

4.2.5 Personal injustice can include the time and trouble involving in pursuing a complaint against a public body, the loss of a right or service, costs associated with pursuing the complaint and inconvenience, worry, distress and hurt feelings.

4.2.6 Certain matters are outside the remit of the LGSCO. These include decisions where there is a statutory right of appeal, situations where the complainant has had a remedy by way of court proceedings and where the complainant has failed to make a complaint within 12 months of the matter complained of (although there is discretion to extend this time limit).

4.2.7 The LGSCO regularly publishes good practice guides both on complaints handling and on suggested remedies for specific complaints. These include guidance relating to council housing repairs, neighbour nuisance, council housing management, benefits,

school admissions, special educational needs, environmental health, planning and social care.

#### 4.3 *Risk management implications*

4.3.1 Complaints can be an essential means by which the Council assures the quality of council service. By listening to complaints and looking at learning, taking improvement action where necessary, the Council minimises the risk of non-compliance with legal requirements as well as financial loss and ensures improved customer satisfaction.

#### 4.4 *Environmental implications*

4.4.1 None

#### 4.5 *Equality implications*

4.5.1 Learning from complaints also assists the Council in fulfilling its statutory duty under s149 of the Equality Act.

4.5.2 Section 149 of the Equality Act 2010 sets out the Public-Sector Equality Duty which requires a public authority (or those exercising public functions) to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
- foster good relations between persons who share a relevant protected characteristic and persons who do not.

### **5. Background Papers**

None.