

Slough Borough Council

Report To:	Audit and Corporate Governance Committee
Date:	30th September 2024
Subject:	Local Government & Social Care Ombudsman (LGSCO) upheld complaints. Statutory & corporate complaints summary of 2023-2024
Chief Officer:	Sonia Khan, - Director of Strategy Change and Resident Engagement Sukdave Ghuman - Monitoring Officer
Contact Officer:	Finbar McSweeney - Complaints, Casework & FOI Lead
Ward(s):	All
Exempt:	NO
Appendices:	Appendix A- Summary of upheld LGSCO complaints received 1 April 2023- 31 March 2024 Appendix B – LGSCO Annual Review Letter July 2024 Appendix C – LGSCO current complaint handling guidance review Appendix D- Statutory and Corporate Complaints report 2023-24 Appendix E – Housing Ombudsman self-assessment Appendix F - Failure to meet the annual submissions deadline Appendix G - Appendix G - Determination - Complaint handling failure

1. Summary and Recommendations

- 1.1 This report sets out a summary of the upheld complaints determined by the LGSCO and a summary of statutory & corporate complaints during 2023-24.

Recommendations:

Committee is recommended to:

- (a) Note the summary of upheld decisions by the Local Government and Social Care Ombudsman during 1st April 2023 - 31 March 2024 (Appendix A).
- (b) Note the summary of statutory and corporate complaints during 1st April 2023 – 31 March 2024.
- (c) Note the themes identified and the actions being taken to respond to these.
- (d) Note the review against the LGSCO and Housing Ombudsman Codes as set out in Appendix C.

Reason:

1.1 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.

Commissioner Review

It takes a lot of energy and determination for a resident to pursue an issue to the Ombudsman. When the Ombudsman finds against the Council it means that the organisation has missed a number of opportunities to remedy an error. This goes to the judgements being made by the authority as well as the efficiency of the council's processes. Councillors will wish to be assured that officers are drawing the right lessons from these complaints. This will, include improvements to the services themselves, the judgements made about initial complaints and the overall efficiency of the complaints system.

2. Report

2.1 Organisations should embrace complaints through increased transparency, accessibility, and complaint handling governance. Demonstrating that individuals are at the heart of its service delivery and good complaint handling is central to that. It is imperative that we learn from complaints data so that we continuously improve and get things right first time.

Options considered

2.2 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.

Background

LGSCO data

3.1 From the 14 August 2023, the Council implemented a new two stage corporate complaints process. Before that, the Council operated a three-stage corporate complaints procedure.

- At Stage 1 the Council will nominate an appropriate officer to respond to the complaint.
- At Stage 2 complaints which are not resolved at Stage 1 are reviewed by the relevant Director / Senior manager for the service the complaint is about.

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 instead of the LGSCO.

3.3 There are separate statutory processes in relation to social care complaints for Adult 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 the reporting period:

- 1 April 2023 - 31 March 2024

3.6 Every July the LGSCO issues 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 letter received by Slough Borough Council for 2023-24 can be found in Appendix B.

3.7 Officers have reviewed the annual letters from the LGSCO and noted the following.

- In 2023-24, all 4 of the investigations conducted by the LGSCO were upheld, this equates to 2.5 upheld decisions per 100,000 residents. From the 47 complaints that were progressed to the LGSCO 91% (43) did not pass their test for an investigation.

The average upheld rate for all investigations has increased this year and the LGSCO explained that we may find that our organisation’s uphold rate is higher than previous years. This means that comparing uphold rates with previous years carries a note of caution. Therefore, they recommend comparing this statistic with that of similar organisations (see below). It is also of note that the number of complaints investigated was low and therefore this has the potential to lead to misleading statistics when percentages are presented.

Authority and Population as of March 2021 (Census Day)	Total number of complaints received	Total number of complaints upheld after investigation	% of complaints investigated that were upheld
Bracknell Forest Council – 125,600	13	12	92%
Reading Borough Council - 174,200	13	10	77%
Slough Borough Council - 158,500	4	4	100%
West Berkshire Council Population - 161,409	10	9	90%
Windsor and Maidenhead - 153,900	12	11	92%
Wokingham Borough Council - 177,500	10	8	80%

Total number of LGSCO complaints decided	51	100%	72	100%	47	100%
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3.9 There was a decrease in the number of LGSCO cases decided in 2023-24 by 7, compared to 2022-23. The 4 complaints were relating to Council Tax (1) and SEND (3).

3.10 This trend appears in-line with the national picture; the LGSCO's Review of Local Government Complaints 2023-24 [Annual reviews of complaints - Local Government and Social Care Ombudsman](#) where their casework was dominated by complaints about special educational needs provision.

Internal complaints data

3.11 Slough Children First the council's children's social care provider partner operates under two distinct complaints processes. These are Statutory Complaints and Corporate Complaints, both have three stages. More information on these can be found [here](#). For the financial year 2023-224, they received and processed the following complaints.

Slough Children First	Stage 1	Stage 2	Stage 1 Complaints closed within the timescale	% Closed within the timescale	% of Complaints resolved at stage 1
Statutory Complaints	21	0	12	57%	100%
Corporate Complaints	38	4**	24	63%	89%

**100% of SCF stage 2 complaints were satisfactorily remedied and did not progress to stage 3.

3.12 In the period 1st April 2023- 31st March 2024 the council received and investigated 7730 complaints at stage 1, 78 at stage 2 and 1 at stage 3 (this stage was removed from 14 August 2023). Of the stage 1 complaints received 35 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 3 financial years. (Please refer to Appendix D for a detailed analysis of the Council's Statutory and Corporate Complaints 2022-23).

	2021/22	2022/23	2023/24
Stage 1	898	839	7773
Stage 2	74	78	78
Stage 3	3	5	1*
Total Complaints handled	975	921	852

* The Corporate complaints procedure changed in August 2023.

3.13 Below is a breakdown of the top 10 complaint departments/areas as well as the percentage of those resolved at each stage without additional escalation.

Stage 1 Complaints	Complaints Received	Complaints Closed	Complaints closed within the timescale	% Closed within the timescale	% of Complaints resolved
Housing Repairs	328	327	87	26%	95%
Revenues & Benefits	100	100	73	73%	93%
SEND & Inclusion	57	57	31	27%	66%
Environmental Services	63	63	32	54%	89%
Neighbourhood Services	42	42	18	33%	95%
Adult Social Care	47	47	16	32%	94%**
Housing Services	36	36	14	35%	89%
Customer Services	29	29	23	79%	100%
Planning	16	16	4	31%	64%
Highways	11	11	9	82%	82%
Parking	11	11	6	55%	91%

**Adult Social Care statutory complaints has one stage, thereafter complainants may choose to progress their complaint to the LGSCO.

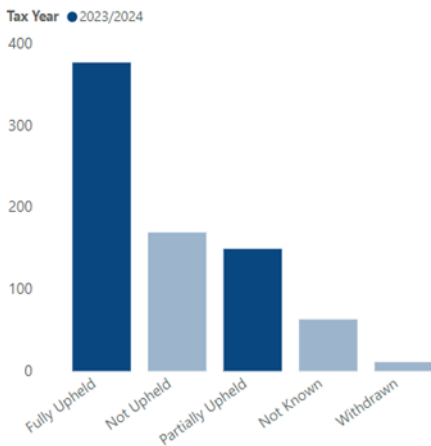
3.14 The main root cause for complaints continues to be communication delays and quality of service. The main root causes for complaints were largely related to capacity and broadly centred on;

- Delays & Timeliness- Most complaints relating to timeliness have been Upheld. This category relates to the time taken to carry out a service. The Council always seeks to avoid delays in service delivery, there are occasions where we need to reprioritise and give attention to putting things right in a timely way and seek early resolution to residents' concerns.
- Communication- A high number of complaints due to lack of communication have been Upheld or Partially Upheld. 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

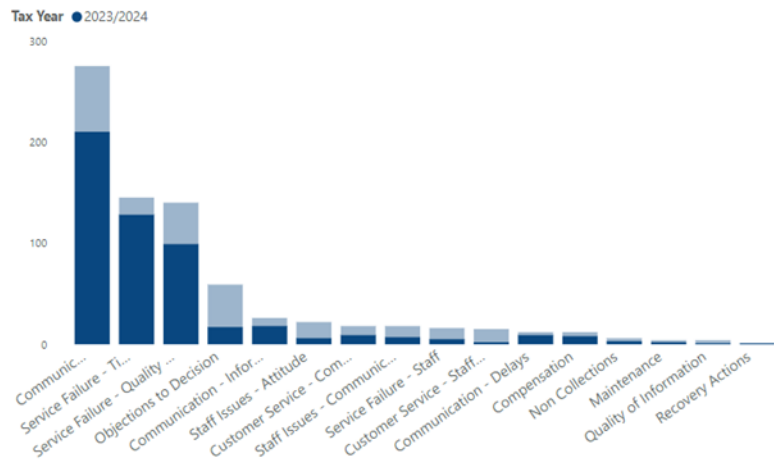
managements. Quality issues with provider services are addressed through the Council's contract management procedures.

Complaint outcome for all upheld complaints 2023-24 is shown below along with the main contributing root cause.

Complaint Outcome - All



Complaints by Root Cause



3.15 68% of the complaints received were partially/fully upheld.

Learning and improvements

3.16 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, Housing Repairs, 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. The Implementation of transitional arrangements when changes were made as well as an implementation of systems for formal review.

The council's aim is to prevent replies to service requests / e-forms received escalating to a complaint.

- Delays in departmental response timings require improvement so that services are offering timely responses, to prevent reputational damage and requests for an escalation of a complaint.
- Council wide it is noted that learning from complaints and consideration of remedies to resolve a complaint in the first instance are not being considered properly.

3.17 Part of the complaints process is that learning is requested on fully/ partially upheld complaints which becomes part of the complaint file. Our focus is to ensure that complaints receive a timely and complete resolution and that learning from complaints is embedded into our continuous service improvement. Prevention is key and we are identifying and prioritising the underlying causes of poor service delivery as part of our service improvement plans, with some initiatives detailed below.

3.18 The timeliness of complaint investigations, especially at Stage 1, is below the standard we expect, and we will be addressing this further throughout 2024/25 by

providing training and guidance to managers so they can support Heads of Service or equivalent in investigating complaints.

3.19 Training was organised and completed with the LGSCO in February 2024, complaint handlers and key investigating managers were in attendance. This has helped to improve how we approach complaints by centring the complainant and their concerns and resolving these at the earliest opportunity.

3.19 The Complaints team are working closely with SEND to provide additional complaint handling guidance, and support because of the increased volume of complaints to this area. This increased from 28 in 2022-23 to 57 in 2023-24.

4.1 *Financial implications*

4.1.1 Payment of compensation is made on individual cases as agreed with the LGSCO and has nearly doubled from the previous year from £6,300. Below shows the compensations awarded. As these are SEND related, their focus on the resolution of complaints in the first instance with consideration of remedies is essential.

Payments 2023-24	Total
SEND	£10,600
SEND	£500
SEND	£200
Total	£11,300

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 way 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 In February 2024, following a period of consultation, the LGSCO launched the Complaint Handling Code for councils, setting out a clear process for responding to complaints effectively and fairly. The code is released as “advice and guidance” for all local councils in England under section 23(12A) of the Local Government Act 1974. This means that councils should consider the Code when developing complaint handling policies and procedures and when responding to complaints. If a council decides not to follow the code, we would expect it to have a good reason for this. The code is expected to become a formal part of LGSCO processes from April 2026.

4.2.8 In April 2024 the Housing Ombudsman Service Complaints Handling Code became statutory, meaning landlords are obliged by law to follow its requirements. There is a legal duty placed on the Ombudsman to monitor compliance with the Code. This means landlords will need to submit their self-assessment annually to the Ombudsman. The timing of the annual submission to the Ombudsman has been aligned with the Regulator of Social Housing’s requirements for the publication and submission of Tenant Satisfaction Measures (TSM) outcomes. For landlords with over 1,000 homes this was 30th June 2024. The self-assessment must also be published on their websites so that residents are able to easily access it. Both codes are aligned with each other and based on unified principles

4.2.9 The Department for Levelling Up, Housing and Communities consulted on draft guidance on best value standards and intervention in 2023. Their subsequent guidance in May 2024 includes seven best value themes. Under governance, this states that well-functioning authorities learn the lessons from complaints and under service delivery, that a well-function authority has an effective and accessible complaints process and provides appropriate redress. A sign of failure could be a high level of complaints made to the LGSCO and/or annual letter requesting action to improve with no associated action plan.

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 *Equality implications*

4.4.1 As part of the review process, we would be looking to seek a mechanism for capturing equality data on protected characteristics to look at complaint issues through that lens.

4.4.2 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.

4.5 *Procurement implications*

4.5.1 *None*

4.6 *Workforce implications*

4.6.1 *None*

4.7 *Property implications*

4.7.1 *None*

5. Background Papers

None.