

Audit Committee

27th September 2021



Report of: Tim O’Gara, Monitoring Officer

Title: Annual Report of Local Government and Social Care Ombudsman Decisions

Ward: Citywide

Officer Presenting Report: Ben Hewkin Head of Information Assurance

Recommendation

That the Audit committee note the report and refer to Full Council for consideration.

Summary

The report summarises findings made by the Local Government and Social Care Ombudsman (LGO) in 2020/2120 in respect of the Council. There were two public reports during this time.

The significant issues in the report are:

The Ombudsman made one Public interest Report in respect of 2 cases – both are detailed in first 2 cases in the attached Summary report at Appendix 1 and in the link to the LGSO website at Para 2 below. There were 19 Upheld cases out of 95 investigations compared with 20 Upheld cases and 130 investigations in 2019-2020

Adult Social Care – 4

Benefits and Tax – 4

Highways and Traffic – 3

Planning Applications & Planning Enforcement – 2

Environmental Services – 2

Housing – 2

Bristol Waste – 1

Children’s Services – 1

Context

1. This report is presented to the Committee to consider for referral to Full Council in line with the duty to report to the Full Council where findings of maladministration or fault have been made by the Ombudsman, summarising the findings made.
2. The Ombudsman performance data includes lessons learnt with a view to looking at wider improvements that can be achieved. The Ombudsman has published an interactive map of council performance showing annual performance data for all councils in England, with links to published decision statements, public interest reports, annual letters and information about service improvements that have been agreed by each council. It also highlights those instances where each authority offered a suitable remedy to resolve a complaint before the matter came to the Ombudsman, and the authority's compliance with the recommendations made to remedy complaints:

<https://www.lgo.org.uk/your-councils-performance>

3. The Ombudsman has sent the Council all findings made in the year ending the 31st March 2020.
4. The requirement to report to Full Council applies to all Ombudsman complaint decisions, not just those that result in a public report.
5. The LGO has upheld 19 cases in the year to March 31st 2021 compared to 20 the previous year.
6. To put this figure in to context, the Council dealt with 6,148 Stage One complaints compared with 6,942 in 2019-2020, giving an escalation rate to the LGO of 1.55% of the total number of cases investigated by the LGO, and 0.31% in relation to the number of upheld cases.
7. Of the 6,148 Stage One cases, 345 were escalated internally and dealt with by BCC at Stage Two of the Complaints procedure, which is an internal escalation rate of 5.61%. Some of these cases, but not all, would also appear in the 95 cases investigated by the LGO.
8. The link below taken from the LGSCO website shows that the Council's upheld rate of 83% is higher than the UK authority average of 63%. Council has provided satisfactory remedies in 16% of cases compared with the national average of 10%.
9. In respect of cases where the LGO has found that routine mistakes and service failures have been made, and the Council has agreed to remedy the complaint by implementing the recommendations, the Ombudsman is of the view that the duty to report is satisfactorily discharged if the Monitoring Officer makes a periodic report to the Council summarising the findings on all upheld complaints over a specific period of time.
10. Appendix 1 sets out a summary of the findings made by the LGO, remedies agreed by the Council and lessons learnt.
11. Appendix 2 and 3 sets out comparator information with other Authorities including by matter and decision respectively
12. The Annual letter from the LGO to the Council is at Appendix 4
13. The Ombudsman has commented in the annual letter:-

During the year, we issued one public report about your Council's failure to implement agreed recommendations in two previous cases we investigated. Our investigation into the first complaint found the Council's refuse collection contractor repeatedly missed communal bin collections from the complainant's block of flats. The fault caused the complainant time and trouble in repeatedly contacting the Council to report problems without a permanent solution being found, and he spent time cleaning up the overflowing bin areas. The Council agreed to our recommendations to apologise, and to instruct its contractor to monitor collections for two months to ensure they happened without failure. The Council also agreed to review its missed collections policy to ensure such matters would be better identified and managed in future.

The Council failed to provide evidence of its compliance with the agreed recommendations, despite numerous requests and opportunities to do so. As a result, we registered a new complaint against the Council about its failure to comply. It then provided us with evidence of its compliance. Our investigation into a second complaint found your Council had been slow to respond and communicated poorly with a complainant concerned about noise nuisance. The Council agreed to a range of recommendations, including to apologise, to remind its officers of the need to store case-specific files that are accessible to all team members, to review noise nuisance cases every four weeks and to communicate outcomes to complainants. Again, the Council failed to provide us with evidence of its compliance with the agreed recommendations, despite numerous reminders to do so. We therefore registered a new complaint against the Council for its failure to comply. We then received the evidence we had requested demonstrating compliance with the original recommendations.

After we registered the two complaints for non-compliance the Council advised us it had carried out an internal investigation into its complaints handling as it recognised it had resource issues. I understand the outcome was an increase in staff resources to deal with complaints and improved mechanisms for monitoring the complaints my office investigates.

I issued the public report to highlight the Council's failure to do what it had agreed to, demonstrating a clear breakdown in its corporate governance arrangements and oversight. We consider that when a council agrees to take action to remedy a complaint, it should be accountable for that action and make every effort to comply. Further to the original recommendations, the Council agreed to apologise to both complainants for failing to carry out the actions agreed in the earlier investigations and make a small payment to them in recognition of the frustration and uncertainty caused. Importantly, the Council agreed to review its arrangements for monitoring complaints. I am pleased the Council has accepted and provided evidence of its compliance with these recommendations.

The year also highlighted more general concerns about your Council's responses to our enquiries. Several of our investigations were delayed by your Council's failure to respond in a timely way to our requests for information. At one stage we were not receiving any responses and had to threaten to issue a witness summons to elicit the information we requested. After recent contact with you, I welcome your reassurances that an action plan to address the issues has been put in place. I hope to see the results of this in the coming year.

14. Officers have considered the comments made.

Officers recognise it has been a challenging year and welcome the Ombudsman's acknowledgement of the work done to remedy the particular cases listed but understand that failings have occurred that have since been remedied.

In reference to the public report:

- The other recommendations were completed, this was not communicated internally or to the Ombudsman.
- A subsequent apology was hand delivered in November 2020, following a review of Ombudsman cases and further contact from the Ombudsman.

- Because of a lack of clarity around the status of the recommendations and problems within Customer Relations, causing poor communications, the Ombudsman escalated the matter to the Chief Executive before declaring in November 2020 that a Public Report would be issued in March 2021.

A number of changes have been made to process and resourcing to facilitate improvements in our handling of complaints:

- Complaint Coordinator / Handler resources increased in the Autumn of 2020 from 1 FTE to 2.5 FTE
- The Complaints Coordinator/Handlers hold daily casework briefings with the Customer Relations Manager overseeing meetings. Caseloads are discussed and prioritised.
- Heads of Service and Directors are now sighted on Ombudsman cases earlier on in the process, to ensure service-based officers are giving cases due attention (particularly to deadlines)
- Extra resourcing has allowed Complaints Coordinators to facilitate improvements and training within service areas in respect of their response to complaints (casework will still take priority)
- IT issues resolved. The iCasework system for handling complaints (implemented in September 2019) means cases will not span different systems and archived databases that used to make it very difficult to carry out long-running complaint investigations
- Complaints officers are much better adapted now to working remotely compared with the start of the pandemic

Proposal

That the Committee note the report and refer to Full Council for consideration.

Legal and Resource Implications

Legal

This report is made in compliance with the Council's duty to report Findings of maladministration or fault to Full Council

Legal advice provided by Nancy Rollason Head of Legal Service

Financial

Appendices:

- Appendix 1 – Summary of complaints upheld and lessons learnt
- Appendix 2 – Comparator data re subject matter
- Appendix 3 – Comparator data re decision
- Appendix 4 – Annual letter from the LGO

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None