

Crawley Borough Council

Report to Overview and Scrutiny Commission 3 September 2019

Local Government & Social Care Ombudsman Annual Review 2018/19

Report of the Head of Legal, Democracy & HR, **LDS/155**

1. Purpose

- 1.1 The purpose of this report is to update Members on the number, nature and the findings of complaints about Crawley Borough Council which were made to the Local Government & Social Care Ombudsman (LGSCO) in 2018/19 and to highlight any changes made from upheld cases to assist with learning lessons and improve the Council's performance

2. Recommendations

- 2.1 To the Overview and Scrutiny Commission

That the Commission considers and notes the report.

3. Reasons for the Recommendations

- 3.1 To ensure that the Commission has the necessary information to ensure that complaints can be made to the Council with ease and complaints are dealt with appropriately. In addition the Council uses its complaints process to improve service delivery.
- 3.2 The Statutory Overview and Scrutiny Guidance for Local Authorities published by the Ministry of Housing, Communities & Local Government in May 2019 states that "Scrutiny members should have access to a regularly available source of key information about the management of the authority – particularly on performance, management and risk".

4. Background

- 4.1 The Council's complaints process operates in two stages: Stage 1 is where the complaint is initially investigated and responded to locally by the relevant service area. If the complainant is dissatisfied with the way that their complaint has been handled at Stage 1, a Stage 2 investigation is undertaken. This is usually carried out by the relevant Head of Service. Responses to complaints at both stage 1 and stage 2 should be made to the customer within 10 working days. If it is not possible to complete the investigation within this time, the customer is informed of the reason why and a response should then be made no later than 20 working days.

- 4.2 The Local Government & Social Care Ombudsman (LGSCO) will investigate complaints of 'maladministration' and 'service failure' and must also consider whether any fault or failings has had an adverse impact (injustice) on the person making the complaint. Such complaints are referred to the LGSCO when customers remain dissatisfied with the Council's response after Stage 2 of its complaints process. Before it will investigate a complaint, it is a requirement of the LGSCO that the complainant has exhausted all stages of the Council's internal complaints procedure. Where the LGSCO receives a complaint that has not first been processed internally by the Council, it will normally refer the complainant back to complete the Council's internal complaints procedure.
- 4.3 Most complaints referred to the LGSCO take 26 weeks to investigate and reach a decision. If the LGSCO considers a Council is found to be at fault in the way a decision has been taken, they may ask the council to reconsider it, depending on the circumstances of the complaint. If that is not possible the council may be asked, where appropriate, to take action to put right the effects of a decision which was not made in the correct way. This might involve the Council being asked to make a compensatory payment.
- 4.4 The LGSCO is unable to consider complaints which:
- have been referred to the LGSCO more than 12 months after the issue being complained about first arose
 - do not affect the complainant personally
 - have been subject to, or could be subject to legal proceedings or a formal appeal process (e.g. Planning Appeals)
 - ask the LGSCO to act as an appeals body to overturn or override a formal decision (such as granting of planning permission).
- 4.5 The LGSCO publishes most decisions on their website three months after the date of the decision and publishes an Annual Review letter in July each year which details all cases received and determined by the LGSCO in the previous year (April-March). The aim of the letter is to provide Councils with information which will help them assess their performance in handling complaints. This Annual Review letter is published on the Council's [website](#).
- 4.6 It should be noted that any cases relating to the social landlord function of the Council are investigated separately by the Housing Ombudsman Service and are not included in this review.

5. Complaints considered by the LGSCO in 2018/19

- 5.1 The LGSCO's Annual Review letter for the year 1st April 2018 - 31st March 2019 reports a total of 8 complaints about Crawley Borough Council were made to the LGSCO during this period. Details of these cases are attached at Appendix A.
- 5.2 Of these 8 cases, four were fully investigated by the LGSCO. Two of these cases, relating to the Housing Needs and Housing Options Services were upheld by the Ombudsman and remedy actions were recommended for both cases, which included a £500 payment to be made to the customer in recognition of the distress and inconvenience caused by the faults identified in the investigation.
- 5.3 Of the remaining four cases which were not investigated:
- Two cases were closed by the LGSCO following confirmation from the Council that the customer had not exhausted its complaints process. One of

these cases related to dissatisfaction with Benefits and Housing Options advice received. The second was housing related but was not referred to the Council so no further details are available.

- The alleged injustice in the remaining two cases were considered by the LGSCO as not warranting an investigation as there was insufficient evidence of any injustice. One related to a housing benefit case where the complainant had the option of a formal appeals process, the second related to a public health case where the LGSCO considered a dispute over the small amount of money being requested did not represent a level of injustice that warrants an investigation by the Ombudsman service.

6. Learning and Service Changes arising from the Upheld Cases

- 6.1 The two cases upheld by the LGSCO have provided the service areas with the opportunity to review their practices and procedures and they have applied learning as follows:

Service Area: Housing Needs & Homelessness	
<i>Issue Upheld</i>	<i>Learning</i>
In considering a housing application the Council failed to recognise a complaint as a request for a review of a property's suitability for the housing applicant. It offered permanent accommodation before it assessed suitability and whether it could adapt it to meet the applicant's needs.	Officers should consider if any complaints received into either the Housing Options or Housing Needs Service should be treated as a Review Request rather than a complaint. Full enquiries should also be made on the adaptability of properties

Service Area: Homelessness	
<i>Issue Upheld</i>	<i>Learning</i>
The Council should have offered the customer short term accommodation when it made its decision on her homelessness application. The Council subsequently agreed to make an offer.	Although the customer subsequently rejected the offer of short term accommodation, the ongoing learning arising from this case is that officers should apply the same offer of short term accommodation for any future cases where the temporary accommodation duty has been discharge prior to an adverse decision being made.

- 6.2 Details of cases which have been received from both the LGSCO and Housing Ombudsman are included in a quarterly report to Corporate Management Team as part of the Council's performance monitoring process and are also reported to Members in the Members Bulletin. This report includes an overview of all complaints and compliments data received during the quarter and any emerging trends. It covers information such as:

- Complaints and compliments data received by each service area (including K2 Crawley and The Hawth)
- Percentage of complaints responses made within the 10 working day response deadline
- The number of serious complaints received

- The number of justified complaints and any learning identified as a result of the complaint being made
 - The number of stage 2 reviews (where the customer remained dissatisfied with the initial stage 1 response)
 - The number of missed bins (refuse and recycling)
 - The number of recorded complaints alleging racial discrimination and hate graffiti incidents reported as requiring removal
- 6.3 Findings arising from LGCSO investigations are also reviewed by the Head of Service and relevant service manager to ensure improvements are made where necessary.
- 6.4 Although the number of complaints referred to the Local Government & Social Care Ombudsman are relatively low during 2018/19, it should be noted that this does not necessarily indicate that the Council is performing well. The LGSCO states that Councils should make use of their own complaints information to anticipate problem areas for service users or training needs of its own staff. This can head off issues which may be escalated to the Ombudsman to investigate.
- 6.5 To this end, Corporate Management Team is focussing on the complaints data and Heads of Service are proactively addressing common complaint issues and emerging trends within their areas. Monthly reports are produced to enable Heads of Service to share 'live' complaints data with their management teams, identify emerging issues and ensure that responses are being made effectively and promptly.

7. Financial Implications

- 7.1 Members should note that the LGSCO and Housing Ombudsman can recommend compensation payments are made where it determines that complaints should be upheld. The Council must pay these compensation payments to the complainant(s). Compensation payments made in the financial year 2018/19 as a result of Ombudsman investigations were as follows:
- £500 (*LGSCO recommendation relating to a Housing Needs/Allocation case*)
 - £200 (*Housing Ombudsman recommendation relating to a quality of communal repairs and leaseholder service charge dispute*).

8. Legal Implications

- 8.1 The LGSCO powers are defined by the Local Government Act 1974 as amended by the Local Government and Public Involvement in Health Act 2007

9. Background Papers

[Local Government & Social Care Ombudsman Annual Review Letter 2018/19](#)

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CASES REFERRED TO LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN: APRIL 2018- MARCH 2019

Case ID & Date determined	Service Area	Issue	LGSCO Determination
17018833 10/4/18	Benefits/ Housing Options	Customer complains that the Council did not provide him with sufficient advice when he approached them for help with his mortgage interest payments around 2001/2. He feels he should have been given homelessness prevention advice on dealing with his mortgage arrears and his entitlement to assistance with mortgage interest payments and this would have avoided him losing his home.	<p>Incomplete/ Invalid:</p> <p>LGO closed the case following confirmation from the Council that the customer had not made a complaint through its complaints process.</p>
17000899 1/6/18	Homelessness	Customer complained that in considering a housing application the Council failed to recognise a complaint as a request for a review of a property's suitability for the housing applicant. It offered permanent accommodation before it assessed suitability and whether it could adapt it to meet the applicant's needs	<p>Upheld</p> <p>LGSCO found the Council to be at fault in failing to consider the customer's complaint as a request for a review of suitability. Further fault was found in the Council offering the property as a permanent let before assessing if it could be adapted.</p> <p>Remedial Action: LGSO recommended the Council</p> <ul style="list-style-type: none"> • Apologised for the faults; • Pay the customer £500 in recognition of the distress and inconvenience caused by the faults identified in the investigation <p>The Council subsequently agreed to these actions and confirmed it had made the payment on 20/8/19. The LGSO recorded the case as "Remedy complete and satisfied"</p>

Case ID & Date determined	Service Area	Issue	LGSCO Determination
170009832 5/7/18	Housing Allocations	Customer unhappy with the way the Council has dealt with their request for additional medical priority under its housing allocations Policy. As a consequence of this fault, the customer and their family have had to live in unsuitable accommodation for longer than necessary which is detrimental to his family's health	<p>Not Upheld</p> <p>Based on the evidence provided by the Council, the LSCO was satisfied the Council has considered properly all the medical evidence and other information provided the customer in support of their request for additional medical priority under its housing allocations policy. The Council had completed a review of its decision and provided detailed reasons to the customer for upholding its decision. In the absence of any identified fault in the Council's decision-making process or the way it has applied its housing allocations policy the LGSCO was unable to challenge the decision reached.</p>
18008640 22/10/18	Planning	Customer complained the Council delayed in deciding on his planning application and failed to update the land charges register. Customer also had to pay the Community Infrastructure Levy as a result.	<p>Not upheld</p> <p>The LGS discontinued the investigation as:</p> <ul style="list-style-type: none"> • the complaint was made late • the customer had a right to appeal to the Planning Inspector about the delay. • Customer can take court action for the compensation they seeks, and • the LGSCO considered they were unlikely to find fault causing significant injustice. •
18008763	Environmental Services: Public Protection	Customer considered the Council should refund her payment of £17 for pest control charges, as she did not think she should have to pay to remove rats which originated from Council land, stating she was on a small pension. The Council declined to make a refund, stating rats often enter homes from neighbouring land and that she had received a service and it can only provide the service by charging. The Council also confirmed it	<p>Investigation not warranted by alleged injustice.</p> <p>LGSCO decided not to undertake an investigation as the customer had received a chargeable service and that vermin tend to come from land which is not linked to the people who need to get them removed. They also considered there was insufficient evidence of injustice and that a dispute over a small amount of money does not represent a level of injustice that warrants an investigation by the Ombudsman</p>

Case ID & Date determined	Service Area	Issue	LGSCO Determination
		offers a discount to people in receipt of certain benefits, and that it would continue to monitor the public land for signs of any more vermin.	
18012912	Housing	No details available as case was not referred onto the council as it had not been through the complaints process.	LGSCO referred customer back to the Council to go through the complaints process.
18009711 15/2/19	Homelessness	Customer complains about the Council's lack of housing help when she and her two children were made homeless. Customer states the Council offered her unsuitable interim accommodation which resulted in her sleeping in a tent, and did not accept the main housing duty.	<p>Upheld</p> <p>The Ombudsman determined that the Council was not at fault for the matters the customer complains about and that it was reasonable for the customer to use her review and appeal rights to challenge the Council's decision. However, the Council should have offered the customer short term accommodation when it made its decision on her homelessness application. The Council subsequently agreed to make this offer and confirmed it had done so on 27/2/19. It was further noted that the applicant had turned the offer down. The Ombudsman was satisfied with the actions taken by the Council in this case and recorded the case as "Remedy complete and satisfied".</p>
18017538 25/3/19	Benefits & Taxation	Customer disagrees with the way the Council has assessed her self-employed income for her council tax reduction.	<p>Investigation not warranted by alleged injustice.</p> <p>The Ombudsman was unable to undertake an investigation because the customer had appealed to the tribunal and also because there was insufficient evidence of fault by the Council.</p>