

REPORT TO AUDIT AND RISK ASSURANCE COMMITTEE

21 March 2019

Subject:	Local Government and Social Care Ombudsman and Housing Ombudsman - Annual Review for the Year Ending 31 March 2018
Director:	Director – Law and Governance and Monitoring Officer - Surjit Tour
Contribution towards Vision 2030:	
Contact Officer(s):	<p>Maria Price – Service Manager Legal Services (maria_price@sandwell.gov.uk)</p> <p>Mandeep Bajway – Principal Solicitor (Mandeep_bajway@sandwell.gov.uk)</p>

DECISION RECOMMENDATIONS

That the Audit and Risk Assurance Committee considers and notes the Local Government and Social Care Ombudsman’s (LGO) Annual Review appended to this report for the year ending 31 March 2018.

1 PURPOSE OF THE REPORT

- 1.1 This report is to present the LGO’s Annual Review for the year ending 31 March 2018 which is appended to this report (Appendix 1).
- 1.2 The Annual Review provides a summary of the complaints that the LGO has dealt with in relation to the council.
- 1.3 It is noted from the Annual Review that the LGO received 92 complaints and enquiries about the council in 2017/18. The LGO carried out 18 detailed investigations of which 11 cases were upheld. Comparisons to previous years’ complaints and enquiries are stated in Table 1 below.

- 1.4 The Housing Ombudsman Service ('HOS') does not publish an annual review report but their annual statistics are detailed in table 1 below.

Table 1

Year	Number of Complaints		
	LGO	HOS	TOTAL
2017/18	92	34	126
2016/17	103	50	153
2015/16	104	38	142

- 1.5 From the statistical information provided by the HOS, a total of 34 enquiries and complaints were received concerning the council in 2017/18 . There were five detailed investigations undertaken of which all were upheld in favour of the Complainant.
- 1.6 All Chief Officers have been advised of the Annual Review and reminded of the importance of dealing with and responding to the Ombudsman's complaints promptly as well as ensuring all appropriate and necessary lessons are learned to ensure continuous service improvement.

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 Ambition 10 of Sandwell's Vision 2030 is relevant. Recommendations from the Ombudsman assist with service improvement and good administrative practice.
- 2.2 It is important that the council considers the nature of the complaints made and their outcomes so as to ensure that the council's reputation is not adversely affected and where appropriate remedial steps taken to prevent the recurrence of such complaints.
- 2.3 As the LGO has pointed out in its covering letter, the number of complaints is not a measure of the corporate health of the council. A reasonable number of complaints can be a positive sign that the council is open and a learning organisation. The LGO emphasises the need for the council to use the statistical information as means of facilitating a healthy debate and discussion within the council so that any lessons can be learned at an early stage and/or be a means of providing assurance that the council is on balance conducting itself well.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 The LGO's Annual Review for the year ending 31 March 2018 (Appendix 1) provides a brief summary of the complaint outcomes that the Ombudsman has dealt with in relation to the Council.
- 3.2 The LGO received 92 complaints and enquiries about the Council during the year 2017/18. According to Council records 45 of these matters were preliminary matters raised with the council, whereas the remainder were accepted and dealt with by the LGO itself.
- 3.3 A breakdown of the service areas of the complaints and enquiries is provided in Table 2 below.

Table 2

Service Area	Complaints received by LGO	Preliminary matters (referred to the Council) (see para 3.4 below)
Adult Care Services	9	9
Benefits and Tax	17	6
Corporate & Other Services	4	4
Education and Children's Services	27	12
Environmental Services	7	1
Highways and Transport	7	1
Housing	18	11
Planning and Development	2	1
Other	1	0
TOTAL	92	45

- 3.4 The preliminary complaints and enquiries were either of a general nature or matters that involve initial enquiries being raised with and addressed by the council, which may progress to an investigation.
- 3.5 **Complaint Outcomes**

LGO Matters

- 3.6 The LGO has reported that 90 decisions were made for matters that they considered. This included 18 detailed investigations which resulted in 11

being upheld and 7 not being upheld. A breakdown of the LGO decisions is provided in Table 3 below.

Table 3

Decision Type	Narrative	Number
Detailed Investigations: Cases Upheld	Cases upheld in favour of the Complainant result in findings of maladministration, and or injustice and the council has to carry out remedial or follow up action and in some cases payment as a resolution. Some cases can result in no further action required	<u>11 upheld:</u> Maladministration and Injustice- 7 Maladministration – 2 Fault found – 0 No further action – 2
Detailed Investigations Cases Not Upheld	Cases not upheld have not been found in favour of the Complainant and result in findings of maladministration and or no further action being required by the Council.	<u>7 not upheld:</u> No Maladministration – 5 No fault found – 2
Advice Given	Advice is provided to the complainant by the LGO and no formal letter is issued to the council.	8 Advice is provided by the LGO and does not require any investigation by the council.
Closed after Initial Enquiries	The council receives a letter informing us that they received a complaint and that no further action is required or the matter is out of LGO jurisdiction.	19 These cases do not require any investigation by the Council it has been closed by the LGO.
Referred Back for Local Resolution	No formal letter is issued to the council.	39 These cases do not require any investigation by the council as the complainant has been

		advised to revert back to the council.
Incomplete/Invalid	No formal letter is issued to the council.	6 These cases do not require any investigation by the council as the nature of the complaint is incomplete / invalid.

HOS Matters

- 3.7 With regards to HOS matters, there were five detailed investigations and five were determined in favour of the Complainant. A breakdown of the HOS decisions is provided in Table 4 below. This final statistic has been provided in an email in addition to the HOS end of year statistics. Please see Appendix 1.

Table 4

Decision Type	Narrative	Number
Detailed Investigations: Cases Upheld	Cases upheld in favour of the Complainant	<u>5 upheld:</u> Maladministration – 2 Partial Maladministration – 3
Detailed Investigations Cases Not Upheld	Cases not upheld have not been found in favour of the Complainant	<u>0 no outcome:</u> No Maladministration – 0
Cases determined as Outside HOS Jurisdiction	These are cases that the HOS cannot investigate as the matter is outside their jurisdiction.	0 Outside jurisdiction
Redress	HOS found there had been sufficient redress made by the council	0 Redress

4. CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

There are no consultation implications arising.

5. ALTERNATIVE OPTIONS

There are no alternative options arising. The council is obliged to formally receive and consider the LGO Report.

6. STRATEGIC RESOURCE IMPLICATIONS

- 6.1 There are no resource implications arising directly as a result of this report save for compensatory payments that have been made in relation to local settlements which amount to £3,950.00 for the LGO's matters. A detailed breakdown of this sum is set out at Appendix 2.
- 6.2 In relation to the HOS there was five payments made with a total sum of £730.00. £500.00 was made last year. Please see Appendix 3.
- 6.3 Although there has not been a significant reduction in the level of compensatory payments made by the council this year, there has been a downward trend since 2015-2016 where the compensation paid out was £8,750.00. Please see Appendix 4 for a further breakdown.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

- 7.1 The Local Government Act 1974 defines two main statutory functions for the Ombudsman:
- To investigate complaints against Councils and other authorities; and
 - To provide advice and guidance on good administrative practice.
- 7.2 Since 2010, the LGO have already operated with jurisdiction over all registered adult social care providers to investigate complaints about care funded and arranged privately. In July 2017, the LGO changed its name to include the 'Social Care Ombudsman' to recognise the social care sector.
- 7.3 The LGO has stated in their annual letter that sharing and learning from their investigations and supporting the democratic scrutiny of public services continues to be one of their key priorities. The LGO has created a dedicated section on their website which contains a host of information to help scrutiny committees and Councils to hold their authority to account. This can be found at www.org.uk/scrutiny.

8 EQUALITY IMPACT ASSESSMENT

8.1 There are no equality issues arising from this report.

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 There are no data protection issues arising from this report.

10 CRIME AND DISORDER AND RISK ASSESSMENT

10.1 There are no direct crime and disorder issues arising from this report. Relevant risk management issues have been detailed within the main body of the report.

11 SUSTAINABILITY OF PROPOSALS

11.1 This report does not set out any proposals.

12 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

12.1 There are no direct health and wellbeing implications arising from this report. However, recommendations from the LGO assist with service improvement and good administrative practice.

13 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

13.1 There is no direct impact on the council's asset management plan or register arising from this report.

14 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

14.1 The council is obliged to consider the Annual Report of the LGO.

14.2 Outcomes from complaints represent an opportunity for the council to learn and improve its services.

15 BACKGROUND PAPERS

None

16 APPENDICES:

Appendix 1	LGO Annual Review Letter
Appendix 2	Table of Financial Payments April 2017- March 2018 – LGO
Appendix 3	Table of Financial Payments April 2017- March 2018 HOS
Appendix 4	Table of Financial payments for April 2016 – March 2017 LGO and HOS

Surjit Tour

Solicitor

Director – Monitoring Officer

APPENDIX 1

LGO ANNUAL REVIEW LETTER

APPENDIX 2 – LGO

Payment for LGO	Summary:	Lessons learnt:	Service Area
£300	<ul style="list-style-type: none"> The outcome of the case: Upheld – maladministration and injustice. 	<p>There was a delay in council responding to request for support.</p> <p>The findings from complaint were shared with workers so that they understood the impact of their failings. All Staff to be reminded of the need to action requests asap.</p>	Adult Social Care
£500.00	<ul style="list-style-type: none"> The outcome: Upheld – maladministration and injustice. 	<p>There was a delay in making changes to care and support plan as well as allocating a social worker to the case.</p> <p>The service area has changed the way in which cases are reviewed. A new system which clearly identified the number of cases waiting allocation and the timeline these cases have been waiting. A weekly report is then circulated to managers.</p>	Adult Social Care
£400.00	<p>The Complainant stated that the Council has not provided her with the support it should have done. The Council has made a payment of £400 for the distress this caused</p>	<p>The Council has apologised for the lack of support and poor Communication. In addition to the payment of £400, the LGO decided that the Council will offer the Complainant further support in by way of continued support and assessments.</p>	Children's Services
£250.00	<p>The outcome- Tenants garden was brought back into line with her tenancy conditions in May 2017.</p> <p>Service area has been in touch with the complainant regarding the</p>	<p>There was a delay at the offset of the complaint in August 2014. The line manager has changed their working practice so that if an officer leaves the team a handover is arranged to ensure nothing is missed.</p>	Homes and Communities

Payment for LGO	Summary:	Lessons learnt:	Service Area
	outcome of the Ombudsman enquiry and the monies awarded.		
£2,500.00	Outcome: The Ombudsman found in favour of the complainant and instructed Education to apologise and raise a cheque of £2500.	Unable to foresee or predict such an occurrence as the parent did not inform Sandwell MBC of their move into Sandwell.	Education.
Total: £3,950.00			

APPENDIX 3 - HOS

Payment	Summary:	Lessons learnt:	Service Area
£100.00	The Complainant accepted an offer of another home and the work was completed whilst the property was empty.	No lessons were learnt and no changes to the way that we do things.	Homes and Communities
£330.00	<p>The Ombudsman found that the Council was maladministrative in its failure to consider compensation for the stress and inconvenience caused to the complainant by its failure to adequately inform Complainant of its decant procedure.</p> <p>Where the problem occurred: The Tipton Local did not have a Decant policy or procedure to follow, and in turn, could not demonstrate that the tenant received clear communication regarding his rights as a Decanted tenant.</p>	A new 'Decant Procedure' is being introduced which all Housing employees will be briefed on.	Homes and Communities
£200.00	<p>There needs to be clearer communication with customers where There are multiple teams/ officers/ contractors involved.</p> <p>Within its determination the Ombudsman has referenced the lack of a compensation policy and that the Repairs and maintenance to Your Home policy does not contain provision for compensation for failure of service or missed appointments.</p>	A review of this will need to be undertaken.	Homes and Communities
£100.00	<p>Wates LivingSpace have had to pay compensation to the complainant for their lack protection of their belongings.</p> <p>The council has had to pay compensation caused by its failure to be clear as to whether her complaint had exhausted the formal complaints procedure and could be referred to the Ombudsman. The</p>	Process changes have now been made to the process. A referral to the Ombudsman 8 weeks after the stage two response has been sent. Training of the complaints process including a review of the	Homes and Communities

Payment	Summary:	Lessons learnt:	Service Area
	complainant contacted the Cllr directly so no one knew she wanted to go to a stage three for some months.	changes and examples of letter writings good and bad.	
Total: £730.00			

APPENDIX 4 – LGO APRIL 2016- MARCH 2017

Payment for LGO	Summary:	Lessons learnt:	Service Area
<p>1.</p> <p>£600.00</p>	<p>Outcome: Maladministration and Injustice</p> <p>The Complainant was refused entry on to the councils' Housing register due to the fact that she owed in excess of £900 rent arrears from a former tenancy.</p> <p>She asked for a review of this decision and the circumstances of the case were considered by a Review Panel and the decision was upheld. Following the Ombudsman enquiry the situation was reviewed again by the original Review Panel and after receiving additional information they overturned the original decision and allowed the complainant to join the Housing Register. The process took about 15 weeks as during this time there were difficulties in making contact with the complainant to discuss her case.</p> <p>The Ombudsman decided that the council did not consider all relevant information when making its original decision and in view of the fact that the complainant could have expressed interest in available homes during this time she may have</p>	<p>All requests to join the Housing Register are dealt with by the Housing Choice Team and individual circumstances are considered and referred to a Senior Member of the team if required.</p> <p>Any negative decision that is challenged is also informally reviewed by a senior member of the Housing Choice Team to ensure that all information available is taken into account prior to it being referred to a Review Panel.</p> <p>The requirement to consider each case individually taking specific circumstances into account was reinforced with relevant team members as this</p>	<p>Homes and Communities</p>

Payment for LGO	Summary:	Lessons learnt:	Service Area
	<p>been successful in obtaining accommodation earlier than she eventually did. The council supplied information to the Ombudsman which suggested that she had missed out on 4 potential offers of accommodation and an award of £600 was made.</p>	<p>measure was already in place prior to this case.</p>	
<p>2. £150.00</p>	<p>Outcome: Maladministration and Injustice.</p> <p>The council has accepted that it misled the Complainant about culling geese at a local park. It was recommended to apologise to him and pay £150 in recognition of the extra trouble he was put to trying to find out the truth.</p> <p>The council was not at fault in how it decided to go ahead with the cull or how it carried it out. It should however record the reasons for its decisions.</p> <p>The council could have asked the Cabinet Member to review the situation and confirm the decision to cull in 2014, but it was not wrong for the council to act in accordance with the approval given in 2013.</p> <p>The council's contractor misled the complainant when it told him it was not going to cull the geese.</p>	<p>The council has reminded officers about the code of conduct to which they must work.</p> <p>The council has since consulted the public about the geese and whether these cause problems for park users.</p> <p>The council has agreed to pay £150 in recognition of the additional time and trouble the council put him to as he tried to find out the truth.</p> <p>The council will review how it records its decisions so its reasons are clear.</p>	<p>Parks and Countryside</p>

Payment for LGO	Summary:	Lessons learnt:	Service Area
<p>3.</p> <p>£300.00</p>	<p>Outcome: Maladministration and Injustice</p> <p>The complainant complained the council failed to put in place the recommendations from its Stage Two investigation report around contact and other matters concerning her relationship with her brother. She says it has also failed to amend inaccurate documentation on her brother's file. Furthermore, she says the council has failed to provide support for her and her brother's relationship. The council has been asked to pay the complainant £300 and apologise.</p>	<p>The council has updated its procedures for complaints handling.</p> <p>The council now asks for legal guidance if it believes withholding correspondence is appropriate and considers this on a case-by-case basis.</p> <p>The council has explained that procedures have been amended to emphasise the importance of monitoring.</p>	<p>Children's Services</p>
<p>4.</p> <p>£81.00</p>	<p>Outcome: Maladministration and Injustice</p> <p>During a visit to the Complainant the carer unintentionally damaged her main door lock meaning it could only be locked from inside. The council refused to cover the cost of replacing the</p>	<p>Both the complainant and the council had some responsibility for the damage to her lock. As a goodwill gesture the council agreed to refund half the cost of</p>	<p>Adult Social Care</p>

Payment for LGO	Summary:	Lessons learnt:	Service Area
	lock which the Complainant found unhelpful and upsetting.	the new lock and apologise for its handling of this matter.	
5. £400.00	<p>Outcome: Maladministration and Injustice</p> <p>The council had no care home vacancies at the standard rate when the Complainant went into a care home. So there should not have been a third-party top up charge. The Council was at fault for charging a top-up as it was not in line with statutory guidance.</p> <p>The council has apologised, waived the top-up and refunded the Complainant the top-up of £400 already paid.</p>	<p>Charging a top-up without offering a suitable placement at a standard rate was not in line with statutory guidance.</p> <p>Delay issuing contract detailing third party top-up arrangements.</p> <p>The council to apologise, waive the top-up and refund top-up fees already paid.</p>	Adult Social Care
6. £600.00	<p>Outcome: Maladministration and Injustice</p> <p>The Complainant was unhappy with the way the council investigated how their son's arm broke on 18 October 2013, whilst in the care of a day care centre. The Complainant says there were several</p>	<p>Ensure that all social workers who have responsibility for investigating safeguarding incidents, and the managers</p>	Adult Social Care

Payment for LGO	Summary:	Lessons learnt:	Service Area
	<p>delays and the council's safeguarding investigations have failed to find out what happened.</p> <p>The council had to apologise for the shortcomings identified above and for the time, trouble and distress this has caused to the Complainant and pay the Complainant £600 for the distress.</p>	<p>who have to supervise these investigations, are informed of the findings of this case.</p>	
Total: £2,131.00			

HOS

Payment	Summary:	Lessons learnt:	Service Area
1.£500.00	<p><u>Outcome: Reasonable Redress Compensation paid.</u></p> <p>The Complainant suffered with leaks from the main roof to their home. Orders were raised and work carried out to the main roof on two occasions during this period. There were several instances where over a period that the work was successful and the Complainant made no contact with the council to state otherwise. This culminated in September 2016 via a Councillor enquiry that the roof was still leaking. Following a visit by council officers extensive work was carried out to the main roof of the maisonette.</p> <p>The Complainants main complaint was the lack of communication and the roof had leaked for two years. The council had to pay £500.00 to the Complainant.</p>	<p>During the process following the Councillor enquiry an employee was assigned to the complaint and visited and updated the Complainant daily on the progress.</p> <p>This was contested by the Complainant at the appeal.</p> <p>All employees who carry out complaints and enquiries are reminded of the importance of following up on their work to ensure customer satisfaction.</p>	Homes and Communities