

FAREHAM

BOROUGH COUNCIL

Report to Audit and Governance Committee

Date: 23 September 2019

Report of: Director of Leisure and Community

Subject: ANNUAL OMBUDSMAN REPORTS AND OVERVIEW OF COMPLAINTS AGAINST MEMBERS

SUMMARY

This report informs members of the number of complaints made to the Council via the Local Government and Social Care Ombudsman, the Housing Ombudsman Service and of any complaints in respect of breaches of the Code of Conduct for Members for the year up to 31 March 2019.

The Audit and Governance Committee's areas of responsibility for Standards and Ethics include: -

- a) Receive, consider and, where necessary, act on reports, guidance and advice from the Council's Monitoring Officer and the Local Government Ombudsman.*
- b) Consider complaints against members' conduct and assess allegations of breaches of the Code of Conduct for Members to determine such complaints*

RECOMMENDATION

It is recommended that the Committee notes the contents of the report.

INTRODUCTION

1. One of the functions of the Audit and Governance Committee, set out in the Constitution, is to advise on an internal framework of standards of conduct that should be followed by members and officers. To assist the Committee in carrying out this role, it is considered helpful to provide information concerning complaints made to, or about, the Council, its members and officers.
2. Many matters which could be termed as complaints might more properly be termed as service requests, and others are dealt with by the relevant departments as part of their normal duties (e.g. a missed refuse bin). Such requests are not covered by this report.
3. Where a matter has not been resolved straight away, the Council's corporate complaints procedure is followed, and the matter is dealt with as a formal complaint. The procedure applies to most complaints, but there are some cases which are treated in a different way. The Council lets the complainant know if this is the case.
4. The formal complaints procedure is a two-stage process. Under Stage 1, the Head of Service in the department responsible will investigate the complaint. If the matter remains unresolved it will proceed to Stage 2 where the Director of the department responsible will review the complaint.
5. A complainant who is still not satisfied with the Council's explanation or resolution, after both stages of the complaints process have been followed, has the right to contact the Local Government and Social Care Ombudsman (LGSCO). Such cases are considered in this report together with the Ombudsman's annual letter.
6. In addition, tenants and leaseholders of housing associations and local authorities can contact the Housing Ombudsman Service, who will also investigate housing complaints that fall within their jurisdiction under the Housing Act 1996.
7. Complaints about the conduct of members which involve possible breaches of the Council's Code of Conduct for Members are not dealt with under the Council's formal complaints procedure. Since the implementation of the Localism Act the members' standards responsibility became the responsibility of the Audit and Governance Committee and its Standards Sub Committee.

COMPLAINTS TO THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN AND THE HOUSING OMBUDSMAN SERVICE

8. The LGSCO's annual review letter, Appendix A, shows that no complaints were upheld against the Council in the last financial year.
9. The Housing Ombudsman Service identified service failure in respect of a complaint they had received during 2017/18. An order was therefore made to the Council, setting out the remedies that the Council was required to implement to put matters right.

ENQUIRIES AND COMPLAINTS RECEIVED

10. In 2018/19 the LGSCO received a total of 8 complaints about the Council and made 11 decisions. Cases are not always received and decided within the same financial year, which explains the discrepancy between the figures; the LGSCO uses the received date and decision date to determine the year for each. In 2017/18 there were 10 complaints and 7 decisions. In 2018/19 all 8 complaints received were decided within the same

year, with the remaining three decisions relating to complaints received during 2017/18.

11. The complaints received by the LGSCO related to several different service areas, which are summarised below. The titles are determined by the LGSCO so do not directly correlate with the services delivered by the Council:
 - (a) 3 for Planning and Development
 - (b) 3 for Corporate and Other Services
 - (c) 2 for Housing

12. The points below provide details of the outcome of the 11 decisions made by the LGSCO in 2018/19:
 - (a) 1 not upheld – the LGSCO carried out a detailed investigation but the complaint was not upheld.
 - (b) 2 referred back for local resolution – the LGSCO found the complaint was taken to them too early and hadn't yet gone through the Council's complaints procedure. No further information is available on these as we are reliant upon the complainant contacting the relevant department with their complaint directly.
 - (c) 6 closed after initial enquiries – the LGSCO considered the complaint but decided against completing a full investigation.
 - (d) 2 advice given – the LGSCO provided early advice or explained where to go for the right help.

13. Of the 8 complaints received and 11 decisions made in 2018/19, only one complaint resulted in the LGSCO carrying out a detailed investigation. The result of this investigation was that the complaint was not upheld. As no complaints to the LGSCO were upheld against Fareham Borough Council in 2018/19, there were no remedies that the Council needed to implement.

14. In addition to those complaints and enquiries received by the Local Government and Social Care Ombudsman, tenants and leaseholders of housing associations and local authorities can contact the Housing Ombudsman Service, who will investigate housing complaints that fall within their jurisdiction. No complaints about Fareham Borough Council were received by the Housing Ombudsman Service during the 2018/2019 year.

15. In 2017/18, the Housing Ombudsman Service received one complaint, relating to how the Council, as the landlord, had handled allegations of anti-social behaviour. The decision was not made until 2018/19, where the Housing Ombudsman Service determined that there was service failure in how the Council handled the anti-social behaviour allegations that had been received about the complainant. In this instance, the Council was ordered to apologise to the complainant and to make a payment for the distress and inconvenience caused.

PERFORMANCE OF HAMPSHIRE DISTRICT COUNCILS

16. For the year ended 31 March 2019, the LGSCO received 134 complaints and enquiries in respect of Hampshire District Councils, including Fareham Borough Council. This is an increase on the 128 complaints received during the previous year. The lowest number of complaints and enquiries was received for Gosport Borough Council, with 3. New Forest District Council received the highest number of complaints and enquiries,

with a total of 21. Complaints and enquiries relating to Planning and Development were the most frequent type with 50, which is more than double the number of the next most common complaint type.

17. For the year ended 31 March 2019, the LGSCO made a total of 126 decisions in respect of Hampshire District Councils, including Fareham Borough Council. Gosport Borough Council had the lowest number of decisions, with 3. New Forest District Council received the highest number of decisions, which resulted in 1 (out of 20) decisions being upheld. East Hampshire District Council had the most decisions upheld with 4 (out of 17). Fareham Borough Council was one of 4 Councils in Hampshire to receive no upheld decisions in 2018/19, with the other three being Eastleigh, Gosport and Rushmoor Borough Councils.
18. No information is available from the Housing Ombudsman Service regarding the number of complaints and enquiries received in respect of other Hampshire District Councils.

COMPLAINTS IN RESPECT OF BREACHES OF THE MEMBERS CODE OF CONDUCT

19. The Council has a duty to make arrangements to receive and consider complaints made against Councillors in Fareham. The responsibility for carrying out this function lies with the Council's Monitoring Officer.
20. Complaints can be received in writing, via email or by completing an online complaint form that is available on the Council's website. All complaints are taken seriously and are recorded and investigated by the Monitoring Officer, who evaluates each one against the code of conduct.
21. For the period 1 April 2018 to 31 March 2019, seven formal complaints against members were received by the Monitoring Officer, a decrease of nine when compared to the previous year. Six of these were resolved at an early stage of the complaints procedure as it was established that no breach of the code had occurred. In one of these cases the member was issued with a letter of advice from the Monitoring Officer and in another case, an apology was issued by the member. One minor breach of code was established, which resulted in a formal letter of censure from the Monitoring Officer to the subject member.

RISK ASSESSMENT

22. There are no significant risk considerations in relation to this report.

CONCLUSION

23. Whilst no complaints were upheld by the LGSCO, the Housing Ombudsman Service determined that there was service failure in respect of a complaint they had received during 2017/18, resulting in a remedy order being issued to the Council.
24. There have been no reports, guidance or advice from the Council's Monitoring Officer or the Local Government and Social Care Ombudsman for the Committee to consider.
25. There have been no breaches of the Code of Conduct for the Committee to consider.
26. The overall level of complaints to the Local Government and Social Care Ombudsman,

the Housing Ombudsman Service and those complaints about Councillors are in line with recent trends and the Committee is recommended to note the contents of the report.

Appendices: **Appendix A – LGSCO Annual Review letter**

Background Papers:

The Local Government and Social Care Ombudsman's website provides copies of the annual review letters sent to all councils about their performance.

Reference Papers:

None

Enquiries:

For further information on this report please contact Annette Rickman, Customer Service Manager (Ext. 4418).