

FAREHAM

BOROUGH COUNCIL

Report to Audit and Governance Committee

Date: 23 November 2020

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 any complaints in respect of breaches of the Code of Conduct for Members for the year up to 31 March 2020.

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 Audit and Governance Committee notes the contents of the report.

INTRODUCTION

1. One of the functions of the Audit and Governance Committee, set out in the Council's 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 be better 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 advises the complainant 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 (LGSCO) 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 two complaints they had received during 2019/20. An order was therefore made to the Council for each, setting out the remedies that the Council was required to

implement to put matters right.

ENQUIRIES AND COMPLAINTS RECEIVED

10. In 2019/20 the LGSCO received a total of 13 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 2018/19 there were 8 complaints and 11 decisions. In 2019/20, 11 of the complaints received were decided within the same year, with the remaining 2 awaiting decision in 2020/21.
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) 6 for Planning and Development
 - (b) 2 for Benefits and Tax
 - (c) 2 for Housing
 - (d) 1 for Corporate and Other Services
 - (e) 1 for Environmental Services and Public Protection and Regulation
 - (f) 1 – Null (there was insufficient information to determine which service the complaint related to)
12. The points below provide details of the outcome of the 11 decisions made by the LGSCO in 2019/20:
 - (a) 5 referred back for local resolution – the LGSCO found the complaint was referred to them too early and hadn't been actioned 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.
 - (b) 5 closed after initial enquiries – the LGSCO considered the complaint but decided against completing a full investigation.
 - (c) 1 incomplete/invalid – there was insufficient information for the LGSCO to proceed. No further information about this complaint is available.
13. Of the 13 complaints received and 11 decisions made in 2019/20, no complaints resulted in the LGSCO carrying out a detailed investigation, which resulted in no complaints being upheld against Fareham Borough Council in 2019/20. There were therefore no remedies that the Council needed to implement.
14. Two of the complaints received towards the end of year 2019/20 were not decided during the same year, so the decisions for these will be included in the 2020/21 report.
15. 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. Two complaints about Fareham Borough Council were received by the Housing Ombudsman Service during year 2019/20.

16. The two complaints received by the Housing Ombudsman Service during 2019/20 were determined within the same year, with detailed investigations being completed. In both cases, the Housing Ombudsman determined that there was service failure in how the Council handled the tenants' complaints. The Council was ordered to make a payment to each of the complainants in redress for the service failures identified in the investigations.

PERFORMANCE OF HAMPSHIRE DISTRICT COUNCILS

17. For the year ended 31 March 2020, the LGSCO received 140 complaints and enquiries in respect of Hampshire District Councils, including Fareham Borough Council. This is an increase on 134 complaints received during the previous year. The lowest number of complaints and enquiries was 3 received for Rushmoor Borough Council. Eastleigh Borough Council received the highest number of complaints and enquiries, with a total of 24. Complaints and enquiries relating to Planning and Development were the most frequent type with 45, and Environmental Services, Public Protection and Regulation made up 32 of the complaints across Hampshire District Councils.
18. For the year ended 31 March 2020, the LGSCO made a total of 141 decisions in respect of Hampshire District Councils, including Fareham Borough Council. Gosport Borough Council had the lowest number of decisions, with a total of 4. Eastleigh Borough Council received the highest number of decisions as well as having the highest number of decisions upheld, with 3 out of 24 decisions.
19. Fareham Borough Council was one of 6 district Councils in Hampshire to receive no upheld decisions in 2019/20. Fareham Borough Council was the only district council to have no detailed complaint investigations during 2019/20.
20. 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

21. 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.
22. 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.

23. For the period 1 April 2019 to 31 March 2020, seven formal complaints against members were received by the Monitoring Officer, the same number of complaints as the previous year. All of these were resolved at an early stage of the complaints procedure as it was established that no breach of the code of conduct had occurred. One of these cases was referred to the Local Government and Social Care Ombudsman by the complainant, who was unhappy about the way the Council had considered the complaint. The Ombudsman decided not to investigate as they were unlikely to find fault in the Council's actions. The Ombudsman concluded that the correct procedure was followed, and the Monitoring Officer was entitled to make the decision that was ultimately made.

RISK ASSESSMENT

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

CONCLUSION

25. Whilst no complaints were upheld by the LGSCO, the Housing Ombudsman Service determined that there was service failure in respect of two complaints received during 2019/20, resulting in remedy orders being issued to the Council.

26. 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.

27. There have been no breaches of the Code of Conduct for the Committee to consider.

28. The overall level of complaints to the Local Government and Social Care Ombudsman, the Housing Ombudsman Service and 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:

None

Reference Papers:

None

Enquiries:

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