

REPORT TO AUDIT & GOVERNANCE COMMITTEE

Date of Meeting: 30th November 2022

Report of: Corporate Manager (Executive Support)

Title: Local Government Ombudsman's Annual Review of Complaints 2021-22

Is this a Key Decision?

No

Is this an Executive or Council Function?

No

1. What is the report about?

1.1. The report explains the role of the Local Government & Social Care Ombudsman (LGO) in investigating and remedying complaints about councils. It also presents the LGO's annual review of complaints about Exeter City Council for the year ending 31 March 2022.

1.2. Complaints relating to Housing Services that escalate to the Ombudsman are investigated by the Housing Ombudsman Service (HOS). Whilst these complaints are not part of the LGO legal duty to communicate with elected members, they have been included in Annex A to inform members of all ombudsman cases.

2. Recommendations:

2.1. That members note the report and highlight any issues with the complaints referred to in the LGO's annual review.

3. Reasons for the recommendation:

3.1. There is a legal duty to communicate to elected members the council's performance in relation to LGO investigations.

4. What are the resource implications including non-financial resources.

4.1. There are no resource implications.

5. Section 151 Officer comments:

5.1. There are no significant financial implications arising out of the report.

6. What are the legal aspects?

6.1. There is a duty under section 5(2) of the Local Government and Housing Act 1989 for the council to prepare a formal report to the council (Audit and Governance Committee) on all Ombudsman complaint decisions.

6.2. The LGO considers that this duty 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. This may be adequately addressed through an annual report on complaints to members, hence this report.

6.3. On rare occasions, the LGO can also issue a '*Formal Public Report*' if a local authority, or any part of it:

- has acted or is likely to act in such a manner as to constitute maladministration or service failure perhaps because of the scale of the fault or injustice, or the number of people affected

- and where the LGO has conducted an investigation in relation to the matter

6.4. Under the provisions of The Local Government Act 1974, whenever the LGO issues a Formal Public Report the council is obliged to lay that report before the council for consideration and respond within three months setting out the action taken, or proposed to be taken, in response to the report. The LGO has not issued any Formal Public Reports in relation to Exeter City Council.

6.5. In the unlikely event that an authority is minded not to comply with the LGO's recommendations following a finding of maladministration, he would always expect the Monitoring Officer to report this to members under section five of the Act. This is an exceptional and unusual course of action for any authority to take and should be considered at the highest tier of the authority.

7. Monitoring Officer's comments:

7.1. This report satisfies the obligation on the Monitoring Officers to report to members all ombudsmen's decisions as described in paragraph 6 above.

8. Report details:

8.1. The LGO investigates complaints from the public about councils and some other bodies providing public services in England. The LGO investigates alleged or apparent maladministration or service failure that have caused injustice to the complainant. Most council services can be investigated including planning, council tax and housing benefit and some areas of housing. Maladministration in broad terms might include:

- flaws in policies or decision making
- poor administrative practice
- failure to adhere to or consider properly statutory guidelines
- failing to consider properly the exceptional circumstances of an individual or a situation
- not properly considering statutory powers or duties
- failing to give an adequate service

8.2. The LGO will usually only become involved after a council's complaints procedure has been exhausted. If the LGO finds the council acted with fault, which caused the person an injustice, it will recommend a remedy to put things right. The LGO's remedies are aimed at putting the person back in the position they would have been were it not for the fault. Where appropriate it also recommends action to avoid similar issues affecting other people - such as reviewing practice and procedure - and can recommend remedies for other persons affected by faults found in an individual complaint

8.3. Details of the complaints received by the LGO about Exeter City Council, and the decisions made by the LGO on those complaints, for the year ending 31st March 2022 are set out Annex A. Members will note that:

- The Ombudsman received, and made decisions on 12 cases
- 7 of those cases were closed after initial enquiries, 2 were not upheld, advice was given to the complainant in 2 and 1 was referred back to the council for resolution
- The ombudsman did not propose a remedy or recommend service improvements for any cases

9. How does the decision contribute to the Council's Corporate Plan?

9.1. Effective handling of complaints and following due process are facets of a well-run council.

10. What risks are there and how can they be reduced?

10.1. No risks identified.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs;
- and foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because:

11.4.1 The report does not set policy and there is no negative impact.

12. Carbon Footprint (Environmental) Implications:

12.1 Not applicable

13. Are there any other options?

13.1 Not applicable.

**Bruce Luxton
Corporate Manager (Executive Support)**

**Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:-**

None

**Summary of complaint statistics from the Local Government and Social Care Ombudsman
and the Housing Ombudsman Service for the year ending 31 March 2022**

Reference	Category	Decided	Decision	Decision Reason	Remedy	Service improvement recommendations
21005063	Planning & Development	06/09/2021	Closed after initial enquiries	Other reason not to investigate	None	None
20013187	Housing Needs	25/05/2021	Closed after initial enquiries	No worthwhile outcome achievable by investigation	None	None
21003249	Environmental Services & Public Protection & Regulation	15/12/2021	Not Upheld	No maladministration found	None	None
21003653	Housing Needs	14/06/2021	Advice given	Signpost to the council's complaints process	None	None
21006831	Environmental Services & Public Protection & Regulation	03/02/2022	Closed after initial enquiries	Not warranted by alleged maladministration/service failure	None	None
21011035	Planning & Development	06/12/2021	Closed after initial enquiries	26B(2) not made in 12 months (out of time)	None	None
21011483	Housing Needs	02/03/2022	Not Upheld	No worthwhile outcome achievable by further investigation	None	None
21011677	Planning & Development	04/01/2022	Closed after initial enquiries	Not warranted by alleged injustice	None	None
21011845	Planning & Development	10/11/2021	Referred back for local resolution	Premature decision - advice given	None	None
21013707	Corporate & Other Services	19/01/2022	Advice given	Previously considered and decided	None	None
21016833	Environmental Services & Public Protection & Regulation	18/02/2022	Closed after initial enquiries	Not warranted by alleged maladministration/service failure	None	None
21018040	Corporate & Other Services	22/03/2022	Closed after initial enquiries	Other reason not to investigate	None	None
202103088	Housing Services	19/12/2021	Recommendation to deliver rejected resolution from Stage Two Investigation	No maladministration handling complainant request Complaint resolved satisfactorily	Good will gesture offered	None
202005117	Housing Services	10/02/2021	Review process	No maladministration of work	None	None

Reference	Category	Decided	Decision	Decision Reason	Remedy	Service improvement recommendations
				completed or complaint handling		
202201594	Housing Services	12/09/2022	Closed after initial enquiries	Not within jurisdiction (timescale)	None	None
202107316	Housing Services	03/12/2022	Advising resident to log complaint initially	Complaints process not used	None	None
202126322	Housing Services	02/03/2022	Advising resident to log complaint initially	Complaints process not used	None	None
202008830	Housing Services	11/06/2021	No maladministration of complaint handling Service failure – advice given to resident	Compensation order - £75.00	£75.00	None