


## REPORT TO AUDIT AND RISK ASSURANCE COMMITTEE

**January 2018**

<b>Subject:</b>	The Local Government and Social Care Ombudsman's and Housing Ombudsman's Services - Annual Review for the Year Ending 31 March 2017
<b>Director:</b>	Director - Monitoring Officer - Surjit Tour
<b>Contribution towards Vision 2030:</b>	
<b>Contact Officer(s):</b>	<p>Maria Price – Service Manager Legal Services (<a href="mailto:maria_price@sandwell.gov.uk">maria_price@sandwell.gov.uk</a>)</p> <p>Mandeep Bajway – Principal Solicitor (<a href="mailto:Mandeep_bajway@sandwell.gov.uk">Mandeep_bajway@sandwell.gov.uk</a>)</p>

### **DECISION RECOMMENDATIONS**

That the Audit & Risk Assurance Committee considers and notes:

1. the Local Government and Social Care Ombudsman's (LGO) Annual Review appended to this report for the year ending 31 March 2017; and
2. the Housing Ombudsman Service (HOS) statistical information for the year ending 31 March 2017.

#### **1 PURPOSE OF THE REPORT**

- 1.1 This report is to present the LGO's Annual Review for the year ending 31 March 2017 which is appended to this report (Appendix 1) and to note the nature of the enquires, complaints and outcomes received by the HOS.
- 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 103 complaints and enquiries about the Council in 2016/17. It is also noted from the Annual Review that the LGO carried out eighteen detailed investigations of which eleven cases were upheld. Comparisons to previous years' complaints and enquiries are stated in Table 1 below.
- 1.4 The HOS does not publish an annual review report but we have been able to obtain their annual statistics. See table 1 below.

Table 1

Year	Number of Complaints		
	LGO	HOS	TOTAL
2016/17	103	50	153
2015/16	104	38	142
2014/15	117	59	176

- 1.5 From the statistical information provided by the HOS, a total of fifty enquiries and complaints were received concerning the Council in 2016/17. There were seven detailed investigations undertaken of which two 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 There are no direct implications for Sandwell's Vision arising from this report. Recommendations from the Ombudsman assist with service improvement and good administrative practice.

## 3 **BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 The LGO's Annual Review for the year ending 31 March 2017 (Appendix 1) provides a brief summary of the complaint outcomes that the Ombudsman has dealt with in relation to the Council.
- 3.2 This report provides summary information in relation to the following:

- Re-directed matters

- LGO Complaints and outcomes
- HOS Complaints

3.3 The LGO received 103 complaints and enquiries about the Council during the year 2016/17. According to council records 61 of these matters were preliminary matters raised with the council that were not taken any further, whereas the remainder were accepted and dealt with by the LGO itself. A breakdown of the service areas of these complaints and enquiries is provided in table 2 below.

Table 2

<b>Service Area</b>	<b>Complaints received by LGO</b>	<b>Preliminary matters (referred to the Council)</b>
Housing	19	16
Planning and Development	5	3
Benefits and Tax	17	7
Education and Children's Services	21	11
Adult Care Services	19	17
Environmental Services	21	11
Highways and Transport	2	0
Corporate & Other Services	7	5
Other	1	0
<b>TOTAL</b>	<b>103</b>	<b>61</b>

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 do not then progress to an investigation.

### HOS

3.5 The HOS received fifty complaints and enquiries about the Council during the year 2016/17. According to our records eleven of these matters initial enquiries being raised with and addressed by the council; whereas the remainder was dealt with by the HOS itself.

### 3.6 **Complaint Outcomes**

#### LGO Matters

- 3.7 The LGO has reported that 104 decisions were made for matters that they considered. This included eighteen detailed investigations which resulted in eleven being upheld and seven not being upheld. A breakdown of the LGO decisions is provided in Table 3 below.

Table 3

<b>Decision Type</b>	<b>Narrative</b>	<b>Number</b>
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- 8  Maladministration – 1  Fault found – 1  No further action – 1
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 – 4  No fault found – 3
Advice Given	Advice is provided to the complainant by the LGO and no formal letter is issued to the Council.	5 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.	21  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.	53

		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.	7  These cases do not require any investigation by the Council as the nature of the complaint is incomplete / invalid.

### HOS Matters

- 3.8 With regards to HOS matters, there were seven detailed investigations and two were determined in favour of the Complainant. A breakdown of the HOS decisions is provided in table 4 below.

Table 4

<b>Decision Type</b>	<b>Narrative</b>	<b>Number</b>
Detailed Investigations: Cases Upheld	Cases upheld in favour of the Complainant	<u>2 upheld:</u>  Maladministration – 1 Partial Maladministration –1
Detailed Investigations Cases Not Upheld	Cases not upheld have not been found in favour of the Complainant	<u>2 not upheld:</u>  No Maladministration – 2
Cases determined as Outside HOS Jurisdiction	These are cases that the HOS cannot investigate as the matter is outside their jurisdiction.	2 Outside jurisdiction
Redress	HOS found there had been sufficient redress made by SMBC	1 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 £2,131.00 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 one payment of £500.00 made. No payments were made last year. Please see Appendix 3.
- 6.3 There has seen a significant reduction in the level of compensatory payments made by the Council this year in relation to LGO complaints when compared to last year's sum of £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 From April 2016, the LGO established a new mechanism for ensuring the agreed recommendations of the LGO are implemented. This has meant the recommendations made by the LGO are more specific and will often include a time-frame for completion. The LGO will now also follow up on the recommendations and seek evidence of implementation. As part of this improvement drive, the LGO plans to provide a more detailed report that includes a sophisticated suite of performance information in respect of compliance and service improvement. The LGO is of the view that by

Councils having more meaningful data, they will be better able to scrutinise and benchmark their performance with other Councils.

## **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 2016- March 2017 - LGO

Appendix 3 Table of Financial Payments April 2016- March 2017 HOS

Appendix 4 Table of Financial payments for April 2015 – March 2016 LGO



**Surjit Tour**

Solicitor

Director – Monitoring Officer



**APPENDIX 1**

**LGO ANNUAL REVIEW LETTER**

## APPENDIX 2 – LGO

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</p>	<p>All requests to join the Housing Register are dealt with by the Housing Choice Team and individual circumstances regarding how arrears accrued 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</p>	<p>Sandwell Homes</p>

	<p>with the complainant to discuss her case.</p> <p>The Ombudsman decided that SMBC 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 been successful in obtaining accommodation earlier than she eventually did. SMBC 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>account was reinforced with relevant team members as this measure was already in place prior to this case.</p>	
<p>2.</p> <p>£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 Ombudsman would expect the Council to record the reasons for a decision and it should note this in future, even if it is only to verify the reasons set out by the officer's report.</p> <p>The Council has reminded officers about the code of</p>	<p>Parks and Countryside</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. The Council's contractor misled the complainant when it told him it was not going to cull the geese.</p>	<p>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>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.</p> <p>Furthermore, she says the Council has failed to provide support for her</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</p>	<p>Children's Services</p>

	and her brother's relationship. The Council has been asked to pay the complainant £300 and apologise.	amended to emphasise the importance of monitoring.	
4. £81.00	<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 lock which Mrs G found unhelpful and upsetting.</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 the new lock and apologise for its handling of this matter.	Adult Social Care
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. Charging a top-up was fault as it was not in line with statutory guidance.</p> <p>The Council has apologised, waived the top-up and</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 part top-up arrangements.</p> <p>The council to apologise, waive the top-up and refund top-up fees already paid.</p>	Adult Social Care

	refunded the complainant the top-up she has already paid of £400.		
6. £600.00	<p>Outcome: Maladministration and Injustice</p> <p>The complainant was unhappy with the way the Council investigated how her son's arm broke on 18 October 2013, whilst in the care of a day care centre. The complainant says there were several 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>	Ensure that all social workers who have responsibility for investigating safeguarding incidents, and the managers who have to supervise these investigations, are informed of the findings of this case.	Adult Social Care
Total: £2,131.00			

### APPENDIX 3 - HOS

Payment	Summary:	Lessons learnt:	Service Area
1.£500.00	<p><b><u>Outcome: Reasonable Redress Compensation paid.</u></b></p> <p>The Complainant suffered with leaks from the main roof to her 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 SMBC to state otherwise. This culminated in Sept 2016 via a Councillor enquiry that the roof was still leaking. Following a visit by SMBC officers of SMBC 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 Cllr 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>	Sandwell Homes

**APPENDIX 4 – LGO APRIL 2015- MARCH 2016**

<b>Payment</b>	<b>Decision</b>	<b>Outcome</b>	<b>Follow Up Action</b>	<b>Category / Directorate</b>
1. 400.00	Upheld: Maladministration and Injustice	Council was found at fault causing injustice. Council agreed to pay £400.00 for the anxiety caused and also to backdate payment. The responsible Manager to also send a letter of apology.	Letter of apology and cheque issued on 10.9.15.	Adult Social Care
2. £5,000.00	Upheld: Maladministration and Injustice	Council was found at fault causing injustice. The Council caused delays in assessing Complainants needs. Council agreed to pay £5,000.00 and to also arrange for the budget to be paid as soon as possible.	Client confirmed the Personal Budget is in place and cheque was sent recorded delivery 3/9/15	Adult Social Care
3. £100.00	Upheld: Maladministration and Injustice	The Council was found at fault for failing to reply to correspondence, it was not at fault in seeking to recover overpayment. The Council already took action to reduce deductions and agreed to write a letter of	Service area sent Letter on 29.9.15. Yet to obtain confirmation if service area has reviewed how it deals with correspondence.	Benefits- Strategic Resources



		apology and pay £100.00. Council also agreed to review how it deals with correspondence from taxpayers.		
4. £1,250.00	Upheld: Injustice	For the injustice caused fault was found. Council required to: Pay £750 to Complainant Pay £500 for the two children To reviews its policies Arrange staff training Place a copy of this report on the files of both children Issue a new handbook for foster carers	Compensation paid. We have received confirmation of new handbook and that actions have been met by LGO on 3.2.16.	Children's Services
5. £250.00	Upheld: Maladministration and Injustice	For the injustice caused fault was found. Council required to: Pay £250.00 and to acknowledge the distress caused to her.	Client confirmed letter and cheque issued on 15/11/15.	Adults Social Care
6. £500.00	Upheld: Maladministration and Injustice	Found at fault in part; for allowing matters to drift, failing to contact Mrs C for six months, failing to invite her to meetings and failing to provide information in writing.	Service area confirmed cheque request has been raised and that The social worker is keeping the family updated as to when	ASC and Children's

		Council to send a letter of Apology on few failings and also to pay £500.00 for distress.	he will hand deliver the cheque.	
7. £1,250.00	Upheld: Maladministration and Injustice	Injustice found due to fault for the defects in the new roof and drainage system. Council to pay £250 for distress and £1000.00 for remedial works.	Service area confirmed cheque was sent on 17/12/15 but had an error. Apology has been made and a new cheque is being sent on 6.1.15.	Sandwell Homes
<b>Total: £8,750.00</b>				