

WAVERLEY BOROUGH COUNCIL

RESOURCES OVERVIEW AND SCRUTINY COMMITTEE

27 SEPTEMBER 2022

Title:

Complaints to the Local Government and Social Care Ombudsman and Housing Ombudsman Service about Waverley's Services in 2021/22

Portfolio Holder: Cllr Paul Follows, Leader of the Council, Policy & Governance, Communications and Emergency Response

Head of Service: Robin Taylor, Head of Policy and Governance

Key decision: No

Access: Public

1. Purpose and summary

1.1 This report is in two parts. The first part concerns complaints to the Local Government and Social Care Ombudsman about Waverley's Services in 2020/21. This discharges the Monitoring Officer's duty under section 5(2) of the Local Government and Housing Act 1989 to submit a formal report to the Council on complaints where, following an investigation, the LGSCO has found maladministration or service failure.

1.2 The second part of the report concerns complaints by Waverley's tenants to the Housing Ombudsman Service.

2. Recommendation

It is recommended that the Resources Overview and Scrutiny Committee notes the information in this report and passes any comments to the Executive.

3. Reason for the recommendation

To ensure the views of the Committee are received and considered by the Executive.

4. Background

4.1 **Part 1 – Complaints about Waverley's services received and closed by the Local Government and Social Care Ombudsman (LGSCO) in 2021/22**

4.1 The LGSCO's annual review letter for 2021/22 is attached as Annexe 1

4.2 During the period April 2021 to March 2022 the Ombudsman conducted four detailed investigations and upheld two complaints (50%) about Waverley's services. This compares with 51% for similar authorities. The two complaints that were upheld are summarised in Annex 2.

4.3 In addition to providing statistics on complaints and enquiries received by the LGSCO about Waverley's services in 2021/22 (set out in full below) the letter:

- Confirms that the LGSCO encourages early resolution of complaints and gives credit to those organisations that accept fault and find appropriate ways to put things right.
- Confirms that the LGSCO continues to focus on the outcomes of complaints and what can be learned from them.
- Draws attention to the approach taken by the Ombudsman in using three key annual statistics, namely complaints upheld, compliance with the Ombudsman's recommendations and satisfactory remedies provided by the authority, which are then used to work out an average level of performance across similar authorities.
- Encourages officers and elected members to use the Ombudsman's interactive map at [Your council's performance](#) so they can gain valuable insights into service areas and early warning signs of problems.
- Expresses concern once again about the under-resourcing of complaint functions in local authorities, a trend that has been exacerbated by the challenges of the pandemic and encourages authorities to consider how complaints are prioritised in terms of capacity and visibility.
- Confirms that the LGSCO is working in partnership with the Housing Ombudsman Service to develop a joint complaint handling code. Both organisations are working to consolidate their approaches thereby simplifying guidance to enable organisations to provide an effective, quality response to each and every complaint. Once launched the LGSCO will assess local authorities' compliance with the joint code and report on their performance in the annual letter.

4.4 The following tables give comparative information for 2021/22 and the three previous years. *Please note that the data provided for complaints received differs from the data for complaints closed since not all complaints received in one year will be closed in the same year.*

Complaints and enquiries received about Waverley's services

Year	Benefits and tax	Corporate and other services	Environment Services	Highways and transport	Housing	Planning	Other	Total
2021/22	1	4	0	0	3	13	0	21
2020/21	1	0	2	0	4	6	0	13
2019/20	0	4	0	2	3	7	0	16
2018/19	3	1	0	0	0	9	1	14

Decisions made by the LGSCO

Year	Detailed investigations		Advice given	Closed after initial enquiries	Incomplete or invalid	Referred for resolution	back local	Total
	Upheld	Not upheld						
2021/22	2	2	1	11	0	4		20
2020/21	3	1	1	7	0	1		13
2019/20	2	2	2	5	1	4		16
2018/19	1	0	0	9	2	1		13

Part 2 – Complaints about Waverley’s landlord and leasehold services closed by the Housing Ombudsman Service in 2021/22

- 5.1 The Housing Ombudsman Service (HOS) is responsible for investigating complaints about the landlord function of a local authority, while complaints about homelessness and housing allocations remain within the remit of the LGSCO.
- 5.2 In line with the LGSCO’s approach, the HOS will only investigate a complaint once the complainant has completed the authority’s complaints procedure. However, before approaching the Ombudsman the complainant currently has the option of raising their concerns with a ‘designated person’ (ie a Waverley Councillor, an MP or Waverley’s Designated Tenants Panel). The complainant can ask the designated person they have chosen to review their complaint and consider whether the matter can be resolved. If the designated person is unable to resolve the complaint, they can refer the complainant’s concerns to the HOS for further investigation.
- 5.3 The HOS does not monitor the effectiveness of the designated person scheme, and with effect from 1 October 2022 complainants will no longer have to either refer the complaint to a designated person or wait eight weeks following the date of the landlord’s final response letter before referring the matter to the HOS. The aim of this legislative change is to ensure that social housing tenants are not disadvantaged and have direct access to the Ombudsman, in addition to expediting the overall complaints process. After 1 October 2022, complainants can still take advice from individuals who would fall within the current definition of designated person, but this will not be considered to be part of the Ombudsman’s formal process.
- 5.4 As a result of this change, Waverley’s Designated Tenants Complaints Panel will be renamed the Customer Experience Group and will review tenants’ feedback on the services they have received from the Housing Service with the aim of making recommendations for improvement. The Council would like to thank the members of the panel for all their work over the past few years in helping to resolve tenants’ complaints under the designated person scheme.
- 5.5 In 2021/22 two complainants asked Waverley’s Designated Tenants Complaints Panel to review their complaints under the designated persons process. Neither complaint was upheld by the Panel. One of the complainants then referred their complaint to the HOS which found no evidence of maladministration, while the other complainant did not take any further action regarding their complaint.

- 5.6 The HOS has yet to publish information on the outcome of complaints made about Waverley in 2021/22 and therefore it is only possible to provide members with information taken from the Council's own records.
- 5.7 In 2021/22 the HOS closed investigations into three complaints received from tenants. In one case the HOS found the redress offered by Waverley was reasonable and asked Waverley to re-offer a compensation previously declined by the complainant. The other two complaints were not upheld. A summary of the complaint that was upheld is attached as Annexe 3.
- 5.8 With effect from March 2021 the HOS now publishes all their decisions on the cases they have investigated and a link to these decisions can be found [here](#) .

HOS Complaints Handling Code

- 5.9 The HOS Complaints Handling Code was first published in 2020/21 and has since been revised. An easy reference guide to the changes can be found [here](#) . Landlords are required to self-assess against the Code annually and publish this on their website. Waverley's self-assessment will be published in October.

6. Relationship to the Corporate Strategy and Service Plan

- 6.1 Ombudsman complaints can result in action to improve processes and systems which, in turn, can improve service delivery and achieve better value for money and improve the health and well-being of our residents and communities.

7. Implications of decision

7.1 Resource (Finance, procurement, staffing, IT)

Occasionally an Ombudsman will recommend the payment of financial compensation to a complainant to remedy their complaint.

7.2 Risk management

Ombudsman complaints can highlight areas where there are reputational and operational risks.

7.3 Legal

There are no legal implications associated with this report.

7.4 Equality, diversity and inclusion

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary, across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010. However, Ombudsmen investigations can help to ensure that the Council delivers its services to all customers in a fair and equal way, and that any shortfall is rectified immediately.

7.5 Climate emergency declaration

There are no implications in this report that relate to carbon neutrality.

8. Consultation and engagement

Not applicable.

9. Other options considered

Not applicable.

10. Governance journey

The report and observations from the Resources Overview and Scrutiny Committee will be submitted to the next meeting of the Executive

Annexes:

Annexe 1 – LGSCO Annual review letter for Waverley 2021/22

Annexe 2 – Summary of complaints upheld by the LGSCO in 2021/22

Annexe 3 – Summary of complaint upheld by the HOS in 2021/22

etc

Background Papers

There are / are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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Agreed and signed off by:

Legal Services: date

Head of Finance: date

Strategic Director: date

Portfolio Holder: date