

AUDIT & SCRUTINY COMMITTEE

14th November 2023

REPORT TITLE:	Local Government and Social Care Ombudsman report.
REPORT OF:	Steve Summers – Strategic Director
REPORT IS FOR:	Decision

REPORT SUMMARY

This report sets the outcomes and recommendations of a report by the Local Government and Social Care Ombudsman (LGSCO) into a Formal Complaint made by a resident about the Council.

One of the recommendations from the report requires the appropriate committee, in this case the Council's Audit & Scrutiny Committee, to consider the report and confirm within three months the action it has taken or proposes to take, and the lessons learnt.

RECOMMENDATIONS

Members are asked:

- R1. To note the report by the Local Government and Social Care Ombudsman as set out in Appendix A attached to this report.**
- R2. To note the update on the recommendations as set out in Appendix B attached to this report.**
- R3. To agree the action, it has taken or proposes to take as set out in Appendix B attached and as set out in this report and advise the Local Government and Social Care Ombudsman accordingly.**
- R4. To note and agree the lessons learnt as set out in this report.**

SUPPORTING INFORMATION

1.0 BACKGROUND INFORMATION

The Council's Formal Complaints Policy was reviewed and adopted in April 2021, it sets out the process for how we deal with complaints when customers feel let down by the service they have received.

The policy advises that the council recognises the value of customer complaints and welcomes them as an important form of feedback on our services. We will learn from and use the information from complaints to drive forward improvements and respond positively to our customer's needs and expectations. We will put a strong emphasis on making personal contact with complainants and finding out from them what we need to do to put things right. We want to resolve all complaints quickly and effectively, resolving them straight away where possible.

The policy also advises that if the complainant is still dissatisfied once they have been through our complaints process, they will be informed of their rights to refer the complaint to the Local Government and Social Care Ombudsman or Housing Ombudsman.

Members will be aware that Formal Complaints are considered and reviewed by the Performance Indicators and Formal Complaints Members Working Group and reported quarterly to the Audit & Scrutiny Committee.

LGSCO Report and Outcomes

The LGSCO report advised that Ms X complained the Council did not properly investigate or act to resolve matters when she reported various nuisances from a restaurant next to her home. She says this caused her distress and adversely affected her health and enjoyment of her home.

Attached as Appendix A is the report by the LGSCO which sets out in detail the nature of their investigation into the complaint against the council and the finding of fault causing injustice to the complainant.

The report also makes a number of recommendations to remedy the injustice caused which are also set out in detail in Appendix A to this report.

One of the recommendations is that the Council must consider the report and confirm within three months the action it has taken or proposes to take. This committee has the delegated authority to consider this matter and advise of the action it has or intends to take to the LGSCO.

The conclusions as set out in the report are as follows:

They found the Council was at fault because it failed to properly:

- consider the powers available to it to enforce the boundary screening it set as a planning condition in 2017, in good time;
- consider in good time the retrospective planning applications made in 2021;
- consider the various nuisances Ms X reported via its environmental health enforcement and statutory nuisance procedures;
- communicate with Ms X or respond properly to her complaint; and

- have due regard to Ms X's human rights under The First Protocol, Article 1, which entitles her to peaceful enjoyment of her home and land.

The view of the LGSCO is the Council's fault caused Ms X avoidable distress, and time and trouble. They also consider there remains uncertainty for Ms X about how things may have been different for her had the Council acted without fault, and this uncertainty caused her distress.

The LGSCO advises that they produced the report after examining relevant documents and discussing the complaint with Ms X. They gave the complainant and the Council a confidential draft of the report and invited their comments. The comments received were taken into account before the report was finalised.

Following a number of exchanges and provision of information to the LGSCO the Council advised by letter that after careful consideration it would now accept the findings and recommendations as contained in the revised draft report. We also advised and assured that whilst they their findings have found fault in this case, the Council takes all matters and concerns raised by the community extremely seriously and try to take the appropriate professional action. In addition, we always strive to improve the way we deal with matters and will use the recommendations set to improve the way we deliver our services.

Actions taken or proposed to take.

As set out above Appendix B attached to this report sets out the recommendations from the LGSCO report and provides an update on progress against each one.

Of the ten recommendations, six have been completed, one partially completed and one ongoing, these will both be completed once this committee meeting has taken place. One recommendation is ongoing and will be completed by the 30th November 2023 and the final recommendation is the Action Plan which is partially completed.

Recommendation No.3 requires the Council to create an action plan to investigate all outstanding planning, environmental health, and licensing issues without delay, and decide if the Council should take any enforcement action. It should share a copy of the plan with the LGSCO.

The action plan has been developed and Appendix B provides an overview of the actions taken to date for this recommendation.

In addition to the recommendations set out in Appendix B we have introduced the following.

- Closer working together between services with one service taking the lead and identifying a single point of contact where there is a multi service issue at both informal and formal complaint stages.
- Strategic Directors review and triage when complaints are made formal to monitor progress and have a corporate overview.

Lessons learnt

This complaint is a multi service complaint which the Council only receive a small amount of. However, as set out in the Council's Corporate Plan and Formal Complaints Policy we strive to deliver good services to the community. In doing that we seek to undertake the following:

- Getting it right.
- Being customer focused.
- Being open and accountable.
- Acting fairly and proportionate.
- Putting things right.
- Seeking continuous improvement.

Senior Officers have considered very carefully the outcomes from this particular matter and dealt with the recommendations as set out in the LGSCO report and in addition identified the lessons learnt which are set out below:

- Need to deal with multi service complaints both at informal and formal stage in a co-ordinated way.
- Provision of a Single Point of Contact on multi service complaints.
- Need to ensure corporate oversight on multi service complaints.
- Need to ensure effective and regular communication with complainants.
- Need to review and ensure policies are complied with by services.
- Need for effective record keeping by services.

References to the Corporate Plan

To ensure the Council provides quality customer services.

5.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Director – Resources & Section 151 Officer

Tel & Email: 01277 312500 / tim.willis@brentwood.rochford.gov.uk

The financial implications are set out in Appendix A attached to the report.

6.0 LEGAL/GOVERNANCE IMPLICATIONS

Name & Title: Claire Mayhew – Joint Acting Director of People and Governance & Monitoring Officer

Tel & Email 01277 312741 / claire.mayhew@brentwood.gov.uk

The Council is required to have a Formal Complaints procedure, to ensure transparency and accountability it is good governance for the Council to report on the complaints.

7.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

None.

8.0 RELEVANT RISKS

Not providing good quality services.

9.0 ENGAGEMENT/CONSULTATION

None.

10.0 ECONOMIC IMPLICATIONS

Name & Title: Phil Drane, Corporate Director – Place

Tel/Email: 01277 312500/philip.drane@brentwood.gov.uk

There are no economic implications arising from this report.

11.0 EQUALITY AND DIVERSITY IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health

Tel & Email 01277 312500/ kim.anderson@brentwood.gov.uk

The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c) Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

Nothing in this report will have a disproportionate adverse impact on anybody with a protected characteristic.

REPORT AUTHOR: **Name:** Steve Summers
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APPENDICES

- Appendix A: Report by the Local Government and Social Care Ombudsman dated 13th September 2023
- Appendix B: Recommendations list update – November 2023

BACKGROUND PAPERS

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
None	