

Local Government Ombudsman – Annual Review 2015/16

Cabinet

Date: 7th September 2016

Author:	Leader of the Council Director of Law and Democratic Services
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 To report the receipt of the Local Government Ombudsman's (LGO) Annual Review for 2015/2016, which gives the total number of complaints and enquiries received by the LGO with regard to Swindon Borough Council.
- 1.2 To highlight the annual summary of statistics on the complaints made to the LGO regarding the Authority for the year ended 31st March 2016.
- 1.3 Securing good decisions and the effective delivery of services without generating complaints ensures the Council's compliance with the requirements of its decision making principles, set out in Article 13 of the Constitution.

2. Recommendations

Cabinet is recommended to:

- 2.1 Receive the Local Government Ombudsman's Annual Review 2015/16; and
- 2.2 Request that the Chief Executive, Corporate Directors, Directors and Heads of Service continue to ensure that, where possible, complaints are resolved internally before such matters are referred to the LGO and that requests for information from the LGO are dealt with promptly.

3. Detail

- 3.1 The LGO issues an Annual Review Letter and Report in June/July each year regarding authorities' performance in responding to complaints. These are sent to Council Leaders and Chief Executives to support greater democratic scrutiny of local complaint handling and to ensure effective local accountability of public services. The Swindon Borough Council Annual Review Report for 2015/16 is attached at Appendix 1.
- 3.2 The LGO has produced a summary of complaint statistics for every local authority in England to be included in the yearly report and published alongside the annual review letters. The summary of statistics is attached at Appendix 2.
- 3.3 Further information on the Annual Review and summary of statistics can be found on the LGO's website www.lgo.org.uk. For members information, the LGO

Further information on the subject of this report can be obtained from Erz Turner, Direct Dial Telephone Number 01793 463002, erz.turner@swindon.gov.uk.

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terminology in describing the status and outcomes of complaints are described on its website as:

- 3.3.1 **Upheld:** These are complaints where it has been decided that an authority has been at fault in how it acted and that this fault may or may not have caused an injustice to the complainant, or where an authority has accepted that it needs to remedy the complaint before we make a finding on fault. If we have decided there was fault and it caused an injustice to the complainant, usually the LGO will make recommendations for the authority to take some action to address it.
- 3.3.2 **Not upheld:** Where an investigation into a complaint has resulted in that the council has not acted with fault.
- 3.3.3 **Advice given:** These are cases where the LGO would not look at a complaint because the body complained about was not within the LGO's scope or the LGO have previously looked at the same complaint from the complainant, or another complaints handling organisation or advice agency was best placed to help them.
- 3.3.4 **Closed after initial enquiries:** These complaints are where an early decision has been made that could not or should not be investigated because the complaint is outside LGO's jurisdiction and cannot lawfully be investigated or it has been decided that it would not be appropriate in the circumstances of the case to investigate. Early assessment of a complaint may also show there was little injustice to a complainant that would need an LGO investigation of the matter, or that an investigation could not achieve anything, either because the evidence shows at an early stage there was no fault, or the outcome a complainant wants is not one that can be achieved, for example overturning a court order.
- 3.3.5 **Incomplete/invalid:** These are complaints where the complainant has not provided enough information to be able to decide what should happen with their complaint, or where the complainant informs the LGO at a very early stage that they no longer wish to pursue their complaint.
- 3.3.6 **Referred back for local resolution:** the LGO work on the principle that it is always best for complaints to be resolved by the service provider wherever possible and the Local Government Act 1974 requires LGO to give authorities an opportunity to try and resolve a complaint before they will get involved. Usually complainants are informed on how to complain to an authority and will be asked to contact it directly. In many instances, authorities are successful in resolving the complaint and the complainant does not re-contact the LGO.

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- 3.4 The total number of complaints received and investigated by the Ombudsman for Swindon Borough Council during 2015/2016 was 46 (Appendix 1 advises). This compares with the 50 complaints that were submitted in 2014-2015.
- 3.5 The LGO report contains additional information about complaints it had upheld, including:
- 3.5.1 the number of cases where the LGO's recommendations had remedied the fault
 - 3.5.2 the number of cases where the LGO decided that the Council's response during the local complaints process offered a satisfactory remedy and
 - 3.5.3 a compliance rate for implementing LGO recommendations to remedy a fault.

Summary of LGO decisions in relation to upheld complaints

- 3.6 The four Swindon cases where the decisions were that the complaint be 'upheld', concerned two complaints relating to Planning and Development, and one each in relation to Education and Children's Services and Environmental Services and Public Protection and Regulation.
- 3.7 With regard to the two complaints regarding Planning and Development, one related to the Council failing to properly consider a planning application for a garage and take enforcement action when the developer did not build in accordance with the approved plans. The LGO found that there was some fault by the Council in the way it considered the planning application but did not consider it caused an injustice requiring a remedy and found no evidence of fault in the way the Council reached its decision not to take enforcement action. In the second complaint, the LGO determined that the Council had failed to take enforcement action in respect of a breach of a planning condition requiring obscured glazing at a newly built school building to the rear of the complainant's home. It was the LGO's view that the Council's failure to impose a precise condition that clearly identified the windows it had agreed with applicant would be obscure glazed amounted to fault, however this error has not caused a significant injustice.
- 3.8 The Education and Children's Services complaint concerned the Council's actions in the placement of two foster children and the Council's alleged failure to address issues which arose after the placement. The LGO did find that part of the complaint be upheld, regarding the Council not carrying out appropriate risk assessments and not completing and sharing relevant documentary evidence. The LGO did also find that the Council took action in responding to concerns by making referrals to relevant organisations and took advice from specialists as well as holding strategy meetings with external organisations. The LGO found the Council had already agreed an action plan to address the actions which

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subsequently have been completed and awarded the complainant £500 compensation as a remedy for the injustice.

- 3.9 The Environmental Services and Public Protection and Regulation complaint concerned the Council's dog warden failing to investigate a dog attack, which took place in a park operated by the Council. The remedy was for the Council to write a letter of apology and implement a joint protocol on 'Dogs in Wiltshire' with Wiltshire Council, the Police and SBC.

Comparison with other authorities

- 3.10 For Members' information, the following data has been obtained in relation to comparator authorities' handling of complaints:

Authority	Total number of complaints	Complaints per 100,000 population*
Bath and North East Somerset	40	21.98
Plymouth City Council	102	39.00
Reading Borough Council	60	37.31
Southampton City Council	67	27.31
Wiltshire Council	109	22.56
Swindon Borough Council	46	21.32

* Mid 2015 population statistics taken from

<http://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland>

- 3.11 It is suggested that in order to ensure that the Council's performance in this area is maintained and improved the Chief Executive, Corporate Directors, Directors and Heads of Service be asked to continue to ensure that, where possible, all complaints are resolved internally before such matters are referred to the LGO and that requests for information from the LGO are dealt with promptly.
- 3.12 Appendix 3 refers to LGO Trends in Swindon from 2010 – 2016.

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4. Alternative Options

- 4.1 There are no alternative options. The Council could decide to develop a different approach to the way it responds to Ombudsman's complaints. However, there is no evidence that this is required given the outcome of the Annual Review.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are financial implications. Where the LGO recommends a local settlement then this is met or will come from the appropriate service budget.

Legal and Human Rights Implications

- 5.2 Legal and Human Rights implications have been taken fully into account in the preparation of this report and it is considered that the recommendations are compatible with Convention rights.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 No other specific implications were identified in the preparation of this report.

Diversity Impact Assessment

- 5.4 No other specific implications were identified in the preparation of this report

Risk Management

- 5.5 Poor performance and findings of maladministration pose a reputational risk to the Council. This is mitigated by the overall performance of the Council and the systems it operates for responding to complaints and ombudsman investigations

6. Consultees

- 6.1 The Corporate Director, Resources (Section 151 Officer) and the Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 None

8. Appendices

- 8.1 Appendix 1 – Annual Review Report for 2015/16 from the Local Government Ombudsman
- 8.2 Appendix 2 – Summary of Statistics

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8.3 Appendix 3 – Local Government Ombudsman Complaints – Trends in Swindon 2010-2016

9. Key Decision/Decision in Cabinet Work Programme and Forward Plan

9.1 This is not a Key Decision and is included in the Cabinet Work Programme for October 2016.