

Report to: Cabinet



Date of Meeting 30 November 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Complaints decided by the Local Government and Social Care Ombudsman and by the Housing Ombudsman 2021/22

Report summary:

This report provides information on complaints referred to and decided by the Local Government and Housing Ombudsmen during 2021/22

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Cabinet notes the report and learning points arising from complaints decided during the year and the steps being taken to address certain areas to improve dealing with complaints.

Reason for recommendation:

To continue to improve the way we handle, and learn from, complaints.

Officer: Henry Gordon Lennox Monitoring Officer monitoringofficer@eastdevon.gov.uk

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk; Failure to comply with Housing Ombudsman Complaint Handling Code may ultimately lead to the council being issued with a Complaint Handling Failure order.

Links to background information

[Annual Review letter 2022](#)

[ACPI 2021-22.xlsx \(eastdevon.gov.uk\)](#)

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
 - A greener East Devon
 - A resilient economy
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Report in full

1. Background and context

- 1.1 The council has a 2-stage formal complaints procedure whereby a complaint is initially considered by the relevant Service Lead and then by the Monitoring Officer, if a complainant is dissatisfied with our response.
- 1.2 A complainant who remains dissatisfied after both stages of the complaints procedure may refer their complaint to the Local Government and Social Care Ombudsman or to the Housing Ombudsman
- 1.3 The Housing Ombudsman deals with complaints to the council as Housing Landlord unless they are about housing waiting list issues (banding/priority/allocations).
- 1.4 In around August time each year, both Ombudsmen publish annual reports relating to complaints decided during the year.

2. Local Government and Social Care Ombudsman (LGSCO)

- 2.1 23 complaints were received by the LGSCO during the year, compared to 13 during 2020/21 (complaint investigations were temporarily suspended during the Covid pandemic). These were broken down by service area Housing (6), Planning(5), Revenues and Benefits(5), Environmental Services (4) and Corporate and Other Services (3).
- 2.2 24 complaints were closed (decided) by the LGSCO during the year with just 1 finding of maladministration. The remaining complaints were not upheld and were either closed after initial enquiries or referred back to the council for local resolution.
- 2.3 Complaint outcomes are published on our website in most cases unless the Ombudsmen specifically request that a decision is not published. This may be in cases where a complainant may be identifiable from a decision.
- 2.4 In the complaint where maladministration was found, the ombudsman determined that the council had allowed an investigation into nuisance caused by a resident's bird-feeding to drift. This was because the council did not consider whether the investigation should be carried out by its Environmental Health team when its Housing Estate Management team could not progress matters further. The Ombudsman felt that this had caused confusion and uncertainty for the complainant.
- 2.5 The council agreed to remedy this injustice by apologising to the complainant and drawing up an action plan to ensure that its investigation did not continue to drift.

3. Housing Ombudsman

- 3.1 Complaints about the council, as social housing landlord, are considered by the Housing Ombudsman. This does not include complaints about allocations or bandings as these still fall within the jurisdiction of the LGSCO. Housing Ombudsman complaints tend to focus on matters such as property repairs and estate management (antisocial behaviour) cases.
- 3.2 In 2021/22 there were 5 decisions issued by the Housing Ombudsman with 4 of these resulting in a finding of maladministration.
- 3.3 The council was ordered to review policies in two cases and 7 separate awards of compensation totalling £1450 were ordered – in some complaints more than one award of compensation was required to reflect different areas of failings. The council has largely complied with these orders but is currently awaiting the findings of a review into the compensation awarded in one complaint which was lower than a sum already recommended during internal consideration of the complaint. The Ombudsman did not identify any further failing and so the council is querying whether or not settlement is considered to have been made.
- 3.4 Copies of each decision notice can be accessed here [Complaint outcomes - East Devon](#)

4. Learning points

- 4.1 One of the key learning points from this and last year's complaints is the need to ensure that our housing service consistently adheres to relevant policy and procedure and that adequate records are kept to enable us to evidence this during consideration of a formal complaint. This includes working closely with contractors to ensure that their records are thorough and sufficiently detailed. It is important that this detail is provided to the complaints team at the earliest point in our complaint investigation so that we can clearly evidence how we have considered a complaint and, should the need arise, provide detailed evidence to the ombudsman.
- 4.2 This point was highlighted specifically in investigation reports:
“It is good practice for a landlord to maintain accurate, contemporaneous records on reports it receives, and its actions in response. This will enable it to not only effectively fulfil its obligations as a landlord and manage any issues raised by its residents but also to properly investigate and respond to complaints accurately, comprehensively and fairly.”
- (The Landlord should) “Review its record keeping policies and procedures to ensure that detailed and accurate records are maintained of its interactions with residents and internal discussions, including copies of agreements, notes of telephone calls and copies of emails and written correspondence.”***
- 4.3 The Complaints team continues to work closely with the Housing teams to ensure timely and thorough responses are provided to complaints but the impact of recruitment and retention issues within some teams has led to delays in responses in some cases. This, together with the lack of evidential record keeping, has led to some criticism of complaint handling during the year.

- 4.4 Staff within the teams have been reminded of the importance of good record-keeping and this is reviewed as part of the Performance Excellence process to ensure that any training or support needs are met. We have also raised issues around record keeping directly with our contractor to ensure that we are able to provide full and accurate repairs and maintenance records.
- 4.5 The Housing Ombudsman now adopts a pretty much zero tolerance approach in terms of its complaint investigations and will find the council at fault if there has been any delay in providing complaint responses and if we are not able to specifically evidence our complete history of contact with a resident. Where there is any doubt over the reason for a property maintenance problem, and the council is unable to provide sufficient evidence in terms of the property repairs or maintenance history, in all likelihood the ombudsman will find in favour of the resident.
- 4.6 It is fair to reflect that Housing has been under considerable pressure throughout the pandemic and this has been made all the more acute due to recruitment and retention difficulties. In the September HR Housing Leadership report, we were actively recruiting to 21 posts, 11 of which were within the Property and Asset Team. The service also lost 171 FTE (Full Time Equivalent) working days during August as a result of staff absence and, together, these issues have resulted in a rise in the number of complaints around delays and communication but also exacerbated difficulties in keeping full and accurate records, which has meant it has been more difficult to deal with and defend complaints.

5. Recommendation

- 5.1 It is recommended that Cabinet notes the complaint decisions made during the year by both Ombudsmen and the current approach of the Housing Ombudsman in determining complaints.
- 5.2 Cabinet also note the identified learning points, particularly the need for full and accurate record keeping, together with the active steps within the Housing team which are being undertaken to address this.

Financial implications:

There are no financial implications on which to comment.

Legal implications:

There are no legal implications on which to comment.