

**Wednesday, 27 September 2023**

**Report Assistant Director - People**

**Local Government and Social Care Ombudsman Annual Review 2022/23**

**1. Exempt Information**

None

**2. Purpose**

To advise the committee of the contents of the Local Government and Social Care Ombudsman's Annual Review letter for the year ended 31<sup>st</sup> March 2023 in relation to complaints against Tamworth Borough Council.

**3. Recommendations**

It is recommended that the committee endorse the contents of the 2022/23 Ombudsman Annual Review Letter and the summary of complaints, decisions and compliance contained within it.

**4. Executive Summary**

**4.1 Annual Letter**

The Local Government and Social Care Ombudsman (LGSCO) produces an annual letter setting out statistics about complaints relating to Tamworth Borough Council that have been referred to them. This year's letter was published on 19<sup>th</sup> July and covers the period 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 a copy of which can be found at Appendix 1.

All decisions made by the ombudsman regarding complaints against Tamworth Borough Council can be found on the LGSCO website <https://www.lgo.org.uk/decisions>. This data can also be viewed via an interactive map of all council's performance nationally which can be found on this link <https://www.lgo.org.uk/your-councils-performance>.

Section 4.2 of this report provides full detail of the complaints and enquiries received by the ombudsman in respect to Tamworth Borough Council along with the decisions made.

During this reporting period it was necessary for Tamworth Borough Council to seek an extension in time to respond to two ombudsman enquiries, although in both cases the Link Officer discussed the cases and agreed extensions with them, the ombudsman still registers this as a late response.

The ombudsman annual letter also reports on the number of complaints upheld as a percentage of the total detailed investigations. For this reporting period 2 decisions out of 2 investigations were upheld giving a statistic of 100% of complaints being upheld in comparison to 59% in similar organisations. Although this percentage looks extremely high in terms of performance it is skewed by the low number of complaints that are received about the council. The ombudsman have advised that in 2022-23 they changed their investigation processes which has contributed to an increase in the average uphold against all complaints, and as such comparisons should not be made against previous years.

The ombudsman also reports on compliance with recommendations made by the ombudsman, in both cases we had done so achieving 100% compliance which is the same when compared to similar organisations.

The final element reported by the ombudsman is the percentage of upheld cases where the council provides a satisfactory remedy before the complaint reached the ombudsman. In this reporting period we had not provided satisfactory remedies to the two upheld cases in comparison to an average of 15% in similar organisations.

#### **4.2 Complaints and enquiries received by the ombudsman in 2022/23**

In the reporting year the Ombudsman received 11 enquiries and complaints about Tamworth Borough Council and made 11 decisions. Appendix 2 gives a detailed breakdown of this.

The complaints received by the Ombudsman were related to the following service areas:

- 4 complaints for Environmental Services, Public Protection & Regulation
- 4 complaints for Housing
- 2 complaints Planning and Development
- 1 complaint for Benefits/Council Tax

When a complaint is received an ombudsman assessor makes an initial judgement on the case and decides whether to progress it further. Within this reporting year the ombudsman closed 4 complaints before contact was made with the Council where they gave the complainant advice to contact the Council to resolve the issue locally.

The ombudsman contacted the council with respect to the 7 remaining complaints to assess if a full investigation was necessary.

- Three complaints/ enquiries were closed after initial enquiries, in two of these cases the complaint was because the ombudsman judged that the complaint was not warranted by the alleged fault. The third case was closed as the ombudsman deemed there was no worthwhile outcome achievable by continuing with the investigation.
- One complaint was referred back to the council for local resolution as the complainant had not exhausted the Council's policy.
- One complaint was deemed as incomplete/ invalid as there was insufficient information to proceed with the investigation.

#### **4.3 Complaints investigated in detail**

2 complaints were passed on for detailed investigation. The ombudsman upheld both complaints, which were from the same customer about the same issue several months apart but were determined on the same day.

4.3.1 The first complaint was about the Council's inaction in dealing with a customer's reports of a neighbour making low frequency noise to annoy her. The customer was also not happy with the Council's decision to restrict access to the council via a single point of contact (SPOC). The Ombudsman's view was the Council had taken appropriate action to deal with Ms S's reports. But they did find fault, as the Council did not advise Ms S that she could appeal the decision on restricting her contact.

The ombudsman made some recommendations to which the council agreed which were:

- To write to the complainant apologising for not advising of the right to appeal the decision on restricting contact.
- To review the restrictions on the contact the complainant has with the council and if restrictions remained then to advise the customer of the right to appeal them.
- Amend the template letter advising customers of restricted contact.

The recommendations were actioned, confirmation provided to the ombudsman, and they subsequently confirmed that they were happy the remedies had been satisfied. The full anonymised report from the Ombudsman can be found at Appendix 3.

4.3.2 The second complaint was about the Council's lack of action in dealing with noise nuisance and anti-social behaviour from the complainant's neighbour. The Ombudsman's investigation found the Council considered the issue, but decided the noise was not statutory nuisance or anti-social. The ombudsman decided that they could not question the merits of that decision. But they did uphold the complaint, because of the Council's delayed response to the complaint.

The Council issued an apology letter to the complainant regarding the delay in responding therefore the ombudsman concluded that there was not enough remaining injustice to warrant further action and that the remedy was complete and satisfied. The full anonymised report from the Ombudsman can be found at Appendix 4.

#### **4.4 Future Developments**

The council remains committed to continuous improvement and to learning from complaints to improve service delivery and customer satisfaction. To support this the following actions are planned within the 2023/24 year:

- The Information Governance Team will continue to facilitate, monitor and improve the complaints process.
- More robust reporting on complaints performance to Corporate Management Team including adherence to the revised timescales.
- Complaints will be reported to Scrutiny and Cabinet on a regular basis via the quarterly performance report.
- The Link Officer will continue to attend focus groups and workshops with the LGSCO as they seek to develop a unified code of practice with the Housing Ombudsman.

#### **5. Resource Implications**

There are no resource implications arising from this report.

#### **6. Legal/Risk Implications**

Failure to manage complaints effectively not only reduces the opportunities to learn from the information they provide but could also have a negative impact on the council's reputation and increase costs via compensation payments. The comments, compliments and complaints policy implemented in April 2023 will help reduce this risk.

#### **7. Equalities Implications**

There are no equalities implications arising from this report.

#### **8. Environment and Sustainability Implications (including climate change)**

There are no environment or sustainability implications arising from this report.

#### **9. Background Information**

The Committee's role and function includes a requirement to monitor the effectiveness of Local Government and Social Care Ombudsman (LGSCO) investigations. As the operation of the LGSCO forms part of this regulatory framework the Committee is provided with the LGSCO annual review for consideration. The LGSCO distribute annual review letters to all councils

regarding their performance in dealing with complaints made about them to the Ombudsman. The aim is to provide councils with information to help them improve complaint handling, and improve services more generally, for the benefit of the public. The letters also include a summary of statistics relating to the complaints received by the LGSCO and dealt with against each council.

The LGSCO has the power to investigate complaints by members of the public who consider that they have been caused injustice by maladministration or service failure in connection with action taken by the Council in the exercise of its administrative functions. Whilst the Ombudsman can investigate complaints about how the Council has done something, it cannot question what a Council has done simply because someone does not agree with it.

A complainant must give the council an opportunity to deal with a complaint against it first although in practice this is not always the route taken. The Ombudsman expects the council's own complaints procedure to be exhausted in the first instance, in this case the two stages of the Comments, Compliments and Complaints policy. If a complainant is not satisfied with the action the council takes, they can send a written complaint to the Local Government and Social Care Ombudsman. Complainants are informed on how to do so at the conclusion of the Comments, Compliments and Complaints stage two process.

The objective of the Ombudsman is to secure, where appropriate, satisfactory redress for complainants and better administration from authorities. Since 1989, the Ombudsman has had power to issue advice on good administrative practice in local government based on experience derived from their investigations.

The LGSCO provide each local authority with an annual review of the authority's performance in dealing with complaints against it which were referred to them, so that the authority can learn from its own performance compared to other authorities.

The LGSCO require every authority to have a Link Officer to whom all complaints are referred, at TBC this is Zoe Wolicki (Assistant Director People) with Nicola Hesketh (Data Protection Officer and Monitoring Officer) providing support.

### **Report Author**

Zoe Wolicki – Assistant Director People

### **Appendices**

Appendix 1 – Annual Review Letter

Appendix 2 – Complaints, Decisions and Compliance Data

Appendix 3 – Final Decision letter

Appendix 4 – Final Decision letter