

THE HIGHLAND COUNCIL
AUDIT AND SCRUTINY COMMITTEE

26 September 2013

Agenda Item	10
Report No	AS/26/13

Scottish Public Service Ombudsman Cases received by the Council 2013/14 - Update Report

Report by the Chief Executive

Summary

This report sets out the number and types of complaint about the Council that have been determined by the Office of the Scottish Public Services Ombudsman (SPSO) in the period since the last report to Audit and Scrutiny Committee.

1. Background

1.1 The Scottish Public Services Ombudsman (SPSO) was set up in 2002 to investigate complaints about organisations providing public services in Scotland, including local authorities. The SPSO looks into complaints where a member of the public claims to have suffered injustice or hardship as a result of maladministration or service failure and only investigates cases when the complainant has exhausted the formal complaints procedure of the organisation concerned.

2. Period covered by the report

2.1 At the meeting of the Audit and Scrutiny Committee in December 2012 members agreed that SPSO cases received by the Council should become a standing item on the Committee agenda. No report came forward to Committee in June because there had been no Ombudsman rulings against the Council in the period since the preceding Committee. The period covered by this report is therefore from March 2013 to September 2013.

3. Statistics March – September 2013.

3.1 There were 6 cases formally determined by the Ombudsman in the period covered by this report. 1 complaint was upheld; 2 were partially upheld; and 3 were not upheld.

3.2 Where upheld cases have contained recommendations from the Ombudsman, all the required actions have been undertaken within the specified timeframe, and the opportunity has been taken to learn, review and improve procedures. There are consequently no outstanding actions for the council arising from Ombudsman recommendations.

4. Summary of upheld SPSO Cases

4.1 The one upheld case was with regard to a planning matter:

- i. Building Warrants: Certificates Of Completion/Habitation: The complaint was that the Council failed to follow relevant legislation and procedures when

issuing a certificate of completion. The vast majority of the defects about which the customer was unhappy related to the quality of workmanship, which were not relevant to the issuing of a completion certificate. However, two relevant matters were overlooked when a building standards officer carried out an inspection when there was a significant amount of snow lying on the ground. The council had acknowledged and apologised to the customer for this as part of the original internal council consideration of the complaint.

The SPSO recommended that the Council reviewed the adequacy of their procedures for carrying out the external elements of inspections in winter months. The Council has subsequently inserted a new paragraph into the risk management protocol for site inspections related to inspecting work in 'Inclement Weather'. The Ombudsman is satisfied that this fully addresses his recommendation.

4.2 The 2 partially upheld and cases were as follows:

- i. Planning Application for a Biomass Boiler: The SPSO did not uphold the substantive complaint about whether the Council assessed all of the relevant information and made an appropriate decision with regard to the installation of a Biomass Boiler. Furthermore, the Ombudsman said that the Council provided a detailed response to all the points raised in the customer's original complaint. However, this was not done within a reasonable timeframe and consequently, this aspect of the complaint was upheld.

Because the Council had already identified this fault and had apologised to the customer for the delay in responding to their complaint, the Ombudsman had no recommendation to make.

- ii. Planning Application for Upgrading of Waste Water Treatment Plant: There were 5 separate heads of complaint raised by the customer, of which only one was upheld. The Ombudsman did not accept the customer's complaint that the Council's consideration of the application was flawed in any way. The aspect of the complaint that was upheld was that the Council did not include a statement of reasons in the Decision Notice which was issued following the determination of the planning application.

The Ombudsman noted that the Council had already acknowledged and apologised for this omission to the customer and that the customer had subsequently been sent the full handling report on the case. In making its determination, the SPSO ruled that it would have been better had the Council provided a short summary of the reasons, rather than the full document. The Ombudsman has consequently welcomed the revised procedures introduced by the Council whereby a specific statement of reasons is now included in every Decision Notice.

4.3 Summary reports on every complaint about the Highland Council that have been investigated by the SPSO, whether upheld or not, are available on www.spsso.org.uk

5. Implications

There are no Resource; Legal; Equalities; Climate Change/Carbon Clever; or Risk implications arising from this report.

6. Recommendation

Members are asked to consider the details of this report.

Signature:

Designation: Chief Executive

Date: 17 September 2013

Author: Kate Lackie, Business Manager