

THE HIGHLAND COUNCIL
AUDIT AND SCRUTINY COMMITTEE
24 MARCH 2016

Agenda Item	
Report No	

Scottish Public Service Ombudsman Cases received by the Council
Report by the Chief Executive

Summary

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

1. Background

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

The period covered by this report is from September 2015 to March 2016.

3. Statistics September 2015 – March 2016

- 3.1 There were 16 cases initiated by the Ombudsman in the period covered by this report and a further 2 that were initiated prior to September 2015.
- 3.2 14 Cases were closed by the SPSO as either 'not competent' or where there was no formal investigation. The decision to not investigate can be made for a variety of reasons some of which include insufficient evidence to substantiate a complaint or where the Ombudsman is unable to deliver a different or better outcome than the Council has already achieved.
- 3.3 There is 1 case, initiated by the Ombudsman in November 2015, where the Council is still awaiting a decision.
- 3.4 A total of 3 cases have been formally investigated and determined by the SPSO since September 2015. Of these, 1 complaint was not upheld; 1 was partially upheld; and 1 was upheld in full. The upheld and partially upheld cases are summarised in section 4, below.

4. **Summary of cases**

4.1 The following paragraphs provide a very brief description of each of the upheld and partially upheld complaints. A fuller summary of each of these complaints can be found at Annex 1.

4.2 Complaint 1, Ref 201500997 Time Taken to Install a Road Sign at concealed road entrance - **UPHELD**

The Ombudsman determined that the Council took an unreasonable time to install a road sign and did not respond to Mr Sander's requests for progress updates within a reasonable timescale.

A number of recommendations were made and the Council has recently written to the Ombudsman to confirm that these have all been completed.

4.3 Complaint 2, 201404445 Council Tax and Council Benefits – **PARTIALLY UPHELD**

The SPSO investigated a complaint that the Council had sent a customer's council tax demands to an incorrect address despite him notifying the Council of his correct address. The customer also complained that the Council failed to process his forms for council tax benefit.

The first complaint was upheld, the second complaint was not. The Council has given an apology, as recommended.

5. **Implications**

There are no Resources; Legal; Equalities; Climate Change/Carbon Clever; Gaelic or Rural implications arising from this report.

Risk: the risks arising from the Ombudsman's rulings have been considered and appropriate action is being taken to ensure similar issues do not arise in future.

<h4>6. <u>Recommendation</u></h4>
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Members are asked to consider the details of this report.

Signature: Steve Barron

Designation: Chief Executive

Date: 15 March 2016

Author: Kate Lackie, Business Manager

Complaint 1

Case ref: 201500997

Determination Date: February 2016

Subject: Request for a Road Sign at concealed road entrance

Outcome: Upheld, recommendations

Summary

Customer C submitted 4 complaints to the Ombudsman as follows:

1. The Council took an unreasonable time to install a road sign (upheld).
2. The Council took an unreasonable time to respond to his requests for progress updates (upheld).
3. The Council unreasonably did not provide a detailed explanation for the delay in installing the sign (upheld).
4. The Council's handling of and response to the complaint was inadequate (upheld).

Decision 1

Customer C had reached agreement with Council Officers in February 2015 that a road sign would be installed at a concealed entrance to his house; the correct sign was installed in October 2015, around eight months later. In responding to the customer's complaint, the Council had already acknowledged that his expectations had been raised for a quick response which was inconsistent with the low priority the request should have been given. However, this did not justify taking eight months to install the correct sign. The Ombudsman also concluded that the time taken to install the road sign was unreasonable, and upheld this aspect of the complaint.

Decision 2

When the Council responded to the customer's original complaint, the Chief Executive acknowledged and apologised for the Council's delay and lack of communication. The Ombudsman likewise concluded that the Council had failed to respond adequately to the customer's requests for updates, and therefore also upheld this complaint.

Decision 3

The Council had advised the customer that the installation of the sign would normally be carried out as part of the Council's planned programme of works, and that road re-surfacing was the first priority for roads teams during the summer. However, the Ombudsman concluded that this did not explain why there was no action for several months over the winter. In addition to this the Ombudsman considered that the Council's explanations about prioritisation and staffing, given to the SPSO, were not as clear as in their communication with the customer, and therefore upheld this complaint.

Decision 4

The Ombudsman considered that it would have been helpful if there had been a clear and unambiguous apology for the delay in responding to the customer's queries and a fuller explanation for the delays. The Ombudsman concluded that the Council's handling of and response to the complaint was inadequate, and therefore, upheld this aspect of the complaint.

Recommendations

The SPSO recommended that:

1. The council provide the SPSO with evidence of the action taken to prevent the incorrect prioritisation of such requests.
2. The council provide the SPSO with evidence of the improvements made in record keeping and task handover management.
3. Council staff involved in the complaint should refresh their understanding of the Model CHP and the Council's complaints procedure.
4. Council staff involved in the complaint should reflect on the handling of Stage 1 of this complaint, taking account of what the Model CHP states.
5. Council staff involved in the complaint should familiarise themselves with the SPSO guidance on apology.

N.B All of these actions have either been completed or are in the process of being implemented.

A full transcript of the Decision Report is not yet available from the SPSO website www.spsso.org.uk but when ready, it will become available by searching on Decision Reports, case reference **201500997**

Complaint 2

Case ref: 201404445

Determination Date: October 2015

Subject: Council tax

Outcome: Partially Upheld, recommendations

Summary

Customer A complained that the Council unreasonably sent his council tax demands to the incorrect address despite him notifying the Council of his correct address several times. He also complained that the Council failed to process his forms for council tax benefit.

The Ombudsman found the customer had contacted the Council to request that his address be changed and that the Council failed to do so within a reasonable timeframe. The Ombudsman upheld this aspect of his complaint. In terms of his council tax benefit application, the Ombudsman noted the Council's records showed that they had issued forms to the customer on a number of occasions but the Council had no record of completed forms being returned. The Ombudsman did not uphold this aspect of the complaint as they found no evidence to support the customer's statement that these forms were returned.

Recommendations

The SPSO recommended that the council:

- Write to the customer to apologise for the delay in updating his address.

N.B. The recommendation has been completed.

A full transcript of the Decision Report can be accessed from the SPSO website www.spsa.org.uk by searching on Decision Reports, case reference **201404445**