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| Agenda Item | 9(a) |
| Report No | AS/15/18 |

HIGHLAND COUNCIL

Committee: Audit and Scrutiny Committee

Date: 20 September 2018

Report Title: Annual Report of Scottish Public Service Ombudsman Cases determined in 2017/18

Report By: Chief Executive

Purpose/Executive Summary

- 1.1** This reports sets out the number and types of complaint against the Council that have been considered by the Office of the Scottish Public Sector Ombudsman (SPSO) in 2017/18 and the subsequent judgement in the cases where the SPSO's inquiry has concluded. It also provides a comparison with the Council's performance in 2016/17. This shows that there has been a marked improvement in the Council's performance in the past 12 months.
- 1.2** 59 cases were determined by the Ombudsman in the period covered by this report. Of those, only 1 was upheld. This compares with 71 cases considered by the SPSO in the previous year, 2 of which were fully upheld and 4 partially upheld. The number of premature cases has fallen from 29 to 20 in the same period, showing improved performance over the year and a general trend of improvement over the last 3 years.

2. Recommendations

2.1 Members are asked to:

- consider the outcomes of the SPSO cases which demonstrate an improvement overall in the Council's performance; and
- Note that actions have been taken in response to the Ombudsman's recommendations.

3. Background

3.1 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 already exhausted the formal complaints procedure of the organisation concerned.

4. Statistical Data

4.1 Attached are summary details of the complaints that the SPSO received and determined about the Highland Council. Appendix 1 details the number and types of complaints (by the SPSO's subject categories) received for 2016/17 and 2017/18 alongside the total of local authority complaints for these years.

4.2 Appendix 2 shows the outcomes of complaints about the Highland Council determined by the SPSO. Proportionality was a category introduced for the first time last year and is used in circumstances where the SPSO decides that, even where a complaint meets the general criteria for investigation, it would not be proportionate to do so for the following reasons:

- the organisation being complained about has already carried out a thorough investigation and steps have been taken to remedy the injustice;
- the outcome being sought is not achievable and there is no public interest in investigating further;
- the matter has already been investigated thoroughly by another public scrutiny body and the outcomes are similar to those that SPSO could achieve;
- investigating a complaint would not achieve any practical benefit for the person complaining, the organisation concerned or the public generally, because the injustices suffered are insignificant and have little or no practical consequences for the individual.

4.3 Previously the Council has regularly been required to go through time consuming and lengthy investigations by the Ombudsman for complaints that the Council had already investigated, upheld and responded to appropriately. The Council had made representations on this approach to the previous Ombudsman and it had also been taken up by SOLACE. The new Ombudsman's decision to introduce this additional sub category is therefore very welcome and suggests that the Council has avoided up to 15 complaints that may otherwise have been taken forward as full investigations with no discernible benefit to the complainant or the organisation.

4.4 59 cases were considered by the Ombudsman in the period covered by this report, 12 fewer than in the previous year. Of those, only 3 were taken forward for full investigation and 1 was fully upheld, which constitutes an uphold rate of 33.3%. This compares well with last year, when 7 cases were taken forward for full investigation with 6 being fully or partially upheld which equated to upheld rate of 85.7%. The Council has also fallen below the sector rate for the first time in 7 years. Fuller details of the 2016/17 upheld case is set out in Section 5, below.

4.4 The number of premature cases has fallen from 40.8% to 33.9% in the same period, showing improved performance over the year and indicates that the Council has improved its signposting to ensure customers know how to make and escalate a complaint if they are dissatisfied with the Council's performance.

5. Upheld/Partially Upheld Complaints 2017/18

5.1 The SPSO upheld 1 complaint about the Highland Council in 2016/17. Full details of this case have already been reported to the Audit and Scrutiny Committee in a previous update report. The Ombudsman's own summary report on this complaint can be found on the website: www.spsos.org.uk by searching on the reference number.

5.2 Case 1, 201603021 Housing Improvements and Renovation (upheld): The SPSO upheld a complaint that the Council had failed to respond reasonably to a tenant's concerns about the quality of service she had received from the Council and our contractor in relation to the installation of a new heating system at her home. The SPSO found that, although the Council acted in line with the requirements of the housing repairs policy, there were failings in our handling and response to the complaint.

5.3 The SPSO's recommendations have been implemented and the case has been closed. The case has resulted in the Council developing an improved process for tenants being able to report issues with housing repairs and installations; a refreshed compensation policy for council tenants; and improved procedures for monitoring contractor performance and seeking recompense for failures to meet required service standards.

6. Implications

6.1 Resources and Risk: Improved performance in handling customer complaints reduces the Council's risk of public exposure to criticism and reduces the cost to the Council of managing failure demand. There are no Legal; Equalities; Climate Change/Carbon Clever; Gaelic or Rural implications arising from this report.

7. Recommendation

7.1 Members are asked to:

- consider the outcomes of the SPSO cases; and
- Note that actions have been taken in response to the Ombudsman's recommendations.

Signature: Steve Barron
Designation: Chief Executive

Date: 10 September 2018

Author: Kate Lackie, Business Manager

Local Authority Complaints Received 2017-18

| Subject Group | The Highland Council | | | Sector Total | Rank |
|--|----------------------|------|--------------------------|--------------|------|
| | The Highland Council | Rank | Complaints as % of total | | |
| Planning | 20 | 1 | 33.33% | 134 | 4 |
| Housing | 11 | 2 | 18.33% | 316 | 1 |
| Social Work | 8 | 3 | 13.33% | 254 | 2 |
| Finance | 7 | 4= | 11.67% | 112 | 6 |
| Roads & Transport | 7 | 4= | 11.67% | 104 | 7 |
| Education | 3 | 6 | 5.00% | 151 | 3 |
| Environmental Health & Cleansing | 1 | 7= | 1.67% | 116 | 5 |
| Legal & Admin | 1 | 7= | 1.67% | 71 | 8 |
| Recreation & Leisure | 0 | - | 0.00% | 24 | 9 |
| Land & Property | 0 | - | 0.00% | 17 | 10 |
| Building Control | 0 | - | 0.00% | 16 | 11 |
| Personnel | 0 | - | 0.00% | 12 | 12 |
| Welfare Fund - Community Care Grants | 0 | - | 0.00% | 7 | 13 |
| Other | 0 | - | 0.00% | 6 | 14 |
| Consumer Protection | 0 | - | 0.00% | 4 | 15= |
| National Park Authorities | 0 | - | 0.00% | 4 | 15= |
| Fire & Police Boards | 0 | - | 0.00% | 3 | 17 |
| Economic Development | 0 | - | 0.00% | 2 | 18= |
| Welfare Fund - Crisis Grants | 0 | - | 0.00% | 2 | 18= |
| Subject Unknown or Out Of Jurisdiction | 2 | - | 3.33% | 119 | - |
| Total | 60 | | 100.00% | 1,474 | |
| <i>Complaints as % of Sector</i> | | 4.1% | | 100.0% | |

Complaints Received by Subject 2016-17

| Subject Group | The Highland Council | | | Sector Total | Rank |
|--|----------------------|------|--------------------------|--------------|------|
| | The Highland Council | Rank | Complaints as % of total | | |
| Housing | 19 | 1 | 26.0% | 388 | 1 |
| Planning | 14 | 2 | 19.2% | 160 | 3 |
| Social Work | 9 | 3 | 12.3% | 219 | 2 |
| Education | 8 | 4= | 11.0% | 144 | 4 |
| Roads & Transport | 8 | 4= | 11.0% | 112 | 7 |
| Legal & Admin | 3 | 6 | 4.1% | 73 | 8 |
| Environmental Health & Cleansing | 2 | 7= | 2.7% | 124 | 5 |
| Finance | 2 | 7= | 2.7% | 120 | 6 |
| Building Control | 2 | 7= | 2.7% | 34 | 9 |
| Welfare Fund - Crisis Grants | 2 | 7= | 2.7% | 5 | 16= |
| Land & Property | 1 | 11 | 1.4% | 19 | 11 |
| Recreation & Leisure | 0 | - | 0.0% | 29 | 10 |
| Welfare Fund - Community Care Grants | 0 | - | 0.0% | 14 | 12 |
| Other | 0 | - | 0.0% | 8 | 13= |
| Valuation Joint Boards | 0 | - | 0.0% | 7 | 13= |
| National Park Authorities | 0 | - | 0.0% | 6 | 15 |
| Economic Development | 0 | - | 0.0% | 5 | 16= |
| Personnel | 0 | - | 0.0% | 5 | 16= |
| Consumer Protection | 0 | - | 0.0% | 4 | 16= |
| Fire & Police Boards | 0 | - | 0.0% | 4 | 16= |
| Subject Unknown or Out Of Jurisdiction | 3 | - | 4.1% | 48 | - |
| Total | 73 | | 100.0% | 1528 | |
| <i>Complaints as % of Sector</i> | | 4.8% | | 100.0% | |

Local Authority Complaints Determined 2016-17

| Stage | Outcome Group | The Highland Council | Sector Total |
|-------------------------|---|----------------------|--------------|
| Advice | Not duly made or withdrawn | 12 | 279 |
| | Out of jurisdiction (non-discretionary) | 0 | 3 |
| | Outcome not achievable | 0 | 1 |
| | Premature | 24 | 467 |
| Total | | 36 | 750 |
| Early Resolution | Not duly made or withdrawn | 0 | 43 |
| | Out of jurisdiction (discretionary) | 2 | 82 |
| | Out of jurisdiction (non-discretionary) | 8 | 111 |
| | Outcome not achievable | 4 | 115 |
| Investigation | Premature | 5 | 57 |
| | Proportionality | 7 | 132 |
| | Resolved | 2 | 20 |
| | Total | 28 | 560 |
| Investigation | Fully upheld | 2 | 52 |
| | Some upheld | 4 | 42 |
| | Not upheld | 1 | 60 |
| | Not duly made or withdrawn | 0 | 1 |
| Total | | 7 | 156 |
| Total Complaints | | 71 | 1,466 |

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| Total Premature Complaints | 29 | 524 |
| Premature Rate | 40.8% | 35.7% |

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| Fit for SPSO Total (Investigations) | 7 | 156 |
| Total Cases Upheld / Some Upheld | 6 | 94 |
| Uphold Rate (total upheld / total fit for SPSO) | 85.7% | 60.3% |

Local Authority Complaints Determined 2017-18

| Stage | Outcome Group | The Highland Council | Sector Total |
|-------------------------|---|----------------------|--------------|
| Advice | Not duly made or withdrawn | 6 | 253 |
| | Out of jurisdiction (discretionary) | 0 | 3 |
| | Out of jurisdiction (non-discretionary) | 0 | 5 |
| | Premature | 19 | 381 |
| Total | | 25 | 642 |
| Early Resolution | Not duly made or withdrawn | 1 | 38 |
| | Out of jurisdiction (discretionary) | 4 | 99 |
| | Out of jurisdiction (non-discretionary) | 6 | 113 |
| | Outcome not achievable | 4 | 85 |
| Investigation | Premature | 1 | 53 |
| | Proportionality | 15 | 314 |
| | Resolved | 0 | 29 |
| | Total | 31 | 731 |
| Investigation | Fully upheld | 1 | 47 |
| | Some upheld | 0 | 49 |
| | Not upheld | 2 | 69 |
| | Not duly made or withdrawn | 0 | 1 |
| Total | | 3 | 169 |
| Total Complaints | | 59 | 1,542 |

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|----------------------------|-------|-------|
| Total Premature Complaints | 20 | 434 |
| Premature Rate | 33.9% | 28.1% |

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| Total Investigation Decisions | 3 | 165 |
| Total Upholds | 1 | 96 |
| Uphold Rate | 33.3% | 58.2% |

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| Old Uphold Rate Calculation | | |
| Total Cases 'Fit for SPSO' | 3 | 169 |
| Total Upholds | 1 | 96 |
| Uphold Rate | 33.3% | 56.8% |