

Agenda Item	9(b)
Report No	AS/16/18

HIGHLAND COUNCIL

Committee: Audit and Scrutiny Committee

Date: 20 September 2018

Report Title: Scottish Public Services Ombudsman, Cases Received by the Council – Update Report

Report By: Chief Executive

Purpose/Executive Summary

This reports sets out the number and types of complaint against the Council that have been referred to the Office of the Scottish Public Sector Ombudsman (SPSO) in the period April to September 2018 and the subsequent judgement in the cases where the SPSO's inquiry has concluded.

20 cases have been considered in the period covered by this report. 1 case has been upheld and 8 are still to be determined. 4 cases were found in the Council's favour and 7 were not progressed past the initial investigation stage.

Recommendations

Members are asked to:

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

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 already exhausted the formal complaints procedure of the organisation concerned.

2. Upheld/Partially Upheld Complaints, April-September 2018

- 2.1 20 complaints about the Highland Council were referred to the SPSO since the beginning of April 2018 which the Ombudsman considered had fulfilled their criteria for investigation. Of those, only 1 case has been upheld and 8 cases are still to be determined. 11 cases have either not been progressed by the Ombudsman or have been found in the Council's favour.
- 2.2 Of the 8 cases still to be determined, 1 is in relation to education/ASN support; 1 is about road conditions; and 6 relate to either planning or enforcement. The predominance of planning complaints is not unusual and reflects the lack of an alternative route of appeal for members of the public who object to planning applications and developments. The majority of cases are either not upheld or are not progressed to full investigation.

3. Upheld Complaints, April-September 2018

- 3.1 Case 1, 201700941, Breaches Of Planning Control (upheld): The SPSO upheld a complaint that the Council did not respond appropriately to complaints in relation to breaches of planning control and anti-social behaviour at a neighbouring holiday let property. The decision report is contained in the attached Appendix.

3.2 The SPSO's recommendations were as follows:

- To apologise to the customer for failing to pass on her complaints about anti-social behaviour to the relevant service in line with the Council's planning enforcement charter;
- To make it clearer in planning reports how applications are expected to comply with relevant policies.

3.3 These recommendations have been implemented to the Ombudsman's satisfaction and case has been closed.

4. Implications

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

5. Recommendation

5.1 Members are asked to consider the details of this report.

Signature: Steve Barron

Designation: Chief Executive

Date: 3 September 2018

Author: Kate Lackie, Business Manager

Case: 201700941, The Highland Council
Sector: local government
Subject: handling of application (complaints by opponents)
Decision: upheld, recommendations

Summary

Ms C made a number of complaints to the council in relation to breaches of planning control and anti-social behaviour at a neighbouring holiday let property. Ms C complained that the council's response to both her concerns was unreasonable.

We took independent advice from a planning adviser. We found that the council had been slow to respond to a number of breaches of planning control and that their reports were inconsistent in relation to how they assessed planning applications against relevant policies. However, we noted that they had already identified ways to improve their service going forwards, including stopping the use of operational management plans as a planning approval condition. We also found that the council had advised Ms C to contact the police about anti-social behaviour but should have passed these reports to the environmental health department, in line with their planning enforcement charter. Therefore, we upheld both of Ms C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Ms C for failing to pass on her complaints about anti-social behaviour to the relevant service in line with their planning enforcement charter. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsos.org.uk/leaflets-and-guidance.

What we said should change to put things right in future:

- It should be clear from planning reports how applications comply with relevant policies.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.