

<b>Agenda Item</b>	6
<b>Report No</b>	AS/15/20

## HIGHLAND COUNCIL

**Committee:** Audit and Scrutiny Committee

**Date:** 26 November 2020

**Report Title:** **Annual Report of Scottish Public Service Ombudsman Cases determined in 2019/20**

**Report By:** Executive Chief Officer Performance and Governance

### Purpose/Executive Summary

- 1.1 This report 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 2019/20 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 2018/19.
- 1.2 53 cases were determined by the Ombudsman in the period covered by this report. Of those, 1 was upheld and 1 partially upheld. This compares with 58 cases considered by the SPSO in the previous year, of which 2 were upheld and 1 partially upheld. The number of premature cases has fallen from 15 to 11 over the same period showing improved performance over the year and a general trend of improvement over the last 5 years.
2. **Recommendations**
  - 2.1 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.
3. **Implications**
  - 3.1 Resources and Risk: A focus on improving 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.
  - 3.2 There are no Legal; Equalities; Climate Change/Carbon Clever; Gaelic or Rural implications arising from this report.

#### **4. Background**

4.1 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.

#### **5. Statistical Data**

5.1 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 2018/19 and 2019/20 alongside the total of local authority complaints for these years.

5.2 Appendix 2 shows the outcomes of complaints about the Highland Council determined by the SPSO. 53 cases were considered by the Ombudsman in the period covered by this report, 5 less than in the previous year. Of those, only 3 were taken forward for full investigation, 1 was fully upheld, and 1 partially upheld. These low numbers are evidence that the Council's complaint handling procedure has been effectively employed. Fuller details of the 2019/20 upheld case are set out in Section 6, below.

5.3 The number of premature cases has fallen from 25.9% to 20.8% 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.

#### **6. Upheld/Partially Upheld Complaints 2019/20**

6.1 The SPSO upheld 1 complaint about the Highland Council in 2019/20 and partially upheld a further complaint. The Ombudsman's own summary report on this complaint can be found on the website: [www.spsso.org.uk](http://www.spsso.org.uk) by searching on the reference number.

##### **Case 1, 201804591 (Upheld):**

The SPSO upheld a complaint that the Council had failed to carry out its duties under the Roads (Scotland) Act 1984 by not removing a gate obstructing a road.

The following recommendations were made:

- Apologise for the failings identified.
- The Council was asked to reconsider the situation as a whole and in the context of its legal powers and obligations in order to reach a view on what further action was necessary to reasonably resolve the matter of the original obstructions.
- Relevant staff were to be briefed to fully understand the Council's legal powers in relation to obstruction and ensure there is a clear record explaining the approach taken to remove an obstruction.

6.3 The recommendations have been implemented to the Ombudsman's satisfaction and case has been closed.

6.4 Case 2, 201708630 (Partially upheld):

A parent complained that the council failed to ensure that there was adequate support in place for their child at school. The SPSO upheld aspects of the complaint relating to the child's plan and the communication of information with staff and partner agencies. They also found that the Council had failed to apologise adequately for the failings in this case.

6.5 A further aspect of the complaint that the child's teacher had unreasonably failed to support them in class was not upheld.

The following recommendations were made:

- Apologise for the failings identified.
- Ensure that there is clear guidance in place for staff in relation to the relationship between a child's plan and co-ordinated support plan.
- Where appropriate under the Highland Practice Model, there should be an up-to-date child's plan in place.

6.6 The recommendations have been implemented to the Ombudsman's satisfaction and case has been closed.

Designation: Executive Chief Officer, Performance and Governance

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Date: 13 November 2020

## Appendix 1

### Local Authority Complaints Received 2019-20

Subject Group	The Highland Council			All local authorities		
	Number received	Rank	%	Number received	Rank	%
Planning	10	1	17.86%	135	4	10.17%
Finance	8	2	14.29%	94	6	7.08%
Social Work	8	2	14.29%	199	2	15.00%
Housing	7	4=	12.50%	271	1	20.42%
Roads & Transport	7	4=	12.50%	111	5	8.36%
Education	6	6	10.71%	171	3	12.89%
Legal & Admin	3	7	5.36%	66	8	4.97%
Building Control	1	8=	1.79%	15	10	1.13%
Welfare Fund - Crisis Grants	1	8=	1.79%	2	16=	0.15%
Consumer Protection	0			4	15	0.30%
Environmental Health & Cleansing	0			93	7	7.01%
Fire & Police Boards	0			1	17=	0.08%
Land & Property	0			11	11	0.83%
National Park Authorities	0			1	17=	0.08%
Other	0			10	12	0.75%
Personnel	0			6	13	0.45%
Recreation & Leisure	0			22	9	1.66%
Valuation Joint Boards	0			2	16=	0.15%
Welfare Fund - Community Care Grants	0			5	14	0.38%
Subject unknown or Out of Jurisdiction	5		8.93%	108		8.14%
<b>Total</b>	<b>56</b>		<b>100.00%</b>	<b>1,327</b>		<b>100.00%</b>
<i>Complaints as percentage of sector</i>	4.22%			100.00%		

### Local Authority Complaints Received 2018-19

Subject Group	The Highland Council			All local authorities		
	Number received	Rank	%	Number received	Rank	%
Planning	17	1	30.91%	130	4	9.99%
Housing	7	2	12.73%	251	1	19.29%
Social Work	6	3	10.91%	206	2	15.83%
Education	5	4=	9.09%	143	3	10.99%
Roads & Transport	5	4=	9.09%	111	5	8.53%
Legal & Admin	4	6	7.27%	67	8	5.15%
Finance	2	7=	3.64%	98	7	7.53%
Other	2	7=	3.64%	6	13	0.46%
Building Control	1	9=	1.82%	15	11	1.15%
Environmental Health & Cleansing	1	9=	1.82%	101	6	7.76%
Welfare Fund - Crisis Grants	1	9=	1.82%	1	18	0.08%
Recreation & Leisure	0			26	9	2.00%
Land & Property	0			16	10	1.23%
Personnel	0			7	12	0.54%
Economic Development	0			5	14	0.38%
Valuation Joint Boards	0			3	15=	0.23%
Welfare Fund - Community Care Grants	0			3	15=	0.23%
National Park Authorities	0			2	17	0.15%
Subject unknown or Out of Jurisdiction	4		7.27%	110		8.46%
<b>Total</b>	<b>55</b>		<b>100.00%</b>	<b>1,301</b>		<b>100.00%</b>
<i>Complaints as percentage of sector</i>	4.23%			100.00%		

## Appendix 2

### Local Authority Complaints Determined

Stage	Outcome Group	2019-20		2018-19	
		The Highland Council	Local Authority sector	The Highland Council	Local Authority sector
Advice	Not duly made or withdrawn	6	248	7	255
	Out of jurisdiction (discretionary)	0	1	0	0
	Out of jurisdiction (non-discretionary)	0	8	1	2
	Outcome not achievable	0	1	0	0
	Premature	10	233	13	244
	<b>Total</b>	<b>16</b>	<b>491</b>	<b>21</b>	<b>501</b>
Early Resolution	Not duly made or withdrawn	3	42	1	45
	Out of jurisdiction (discretionary)	1	49	5	70
	Out of jurisdiction (non-discretionary)	6	44	4	47
	Outcome not achievable	0	29	3	71
	Premature	1	34	2	55
	Proportionality	23	462	17	358
	Resolved	0	13	0	26
	<b>Total</b>	<b>34</b>	<b>673</b>	<b>32</b>	<b>672</b>
Investigation	Fully upheld	1	29	2	34
	Some upheld	1	25	1	23
	Not upheld	1	30	2	40
	Resolved	0	1	0	1
	<b>Total</b>	<b>3</b>	<b>85</b>	<b>5</b>	<b>98</b>
<b>Total Complaints</b>		<b>53</b>	<b>1,249</b>	<b>58</b>	<b>1271</b>