

Agenda Item	7
Report No	AS/19/21

THE HIGHLAND COUNCIL

Committee: Audit and Scrutiny Committee

Date: 23 September 2021

Report Title: **Annual Report of Scottish Public Services Ombudsman Cases determined in 2020/21**

Report By: Executive Chief Officer Performance and Governance

1. **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 Services Ombudsman (SPSO) in 2020/21 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 2019/20.
- 1.2 41 cases were determined by the Ombudsman in the period covered by this report. Of those, 1 was upheld and 1 was not upheld. This compares with 53 cases considered by the SPSO in the previous year, of which 1 was upheld and 1 partially upheld. The number of premature cases has fallen from 11 to 7 over the same period showing improved performance over the year and continuing a general trend of improvement over the last 5 years. The SPSO, at her discretion, chose not to investigate 16 of the cases brought against the Council on the basis that the Council had demonstrated good complaint handling in its response to the customer.

2. **Recommendations**

- 2.1 Members are asked to:
 - i. Note the low numbers of complaints regarding the Council considered by the SPSO;
 - ii. Consider the outcomes of the upheld and partially upheld cases; and
 - iii. Note that the SPSO's recommendations have now been carried out.

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; Community (Equality, Poverty, Rural and Island); Climate Change / Carbon Clever; or Gaelic 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 investigates 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 2020/21 and 2019/20 alongside the total of local authority complaints for those years.
- 5.2 Appendix 2 shows the outcomes of complaints about the Highland Council determined by the SPSO. The SPSO has changed the terms used to describe the outcomes this year and so a direct comparison with 2019/20 is not possible for each data point.
- 5.3 41 cases were considered by the Ombudsman in the period covered by this report, 12 less than in the previous year. Of those, only 2 were taken forward for full investigation and 1 was fully upheld and the other was not upheld. While it is likely that the overall numbers have been affected by the pandemic, these low numbers are evidence that the Council's complaint handling procedure has been effectively employed. Full details of the upheld case (reference 201909583) were reported to the Audit & Scrutiny Committee on 24th June 2021.
- 5.4 The number of premature cases has fallen from 20.8% to 17.1% 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.
- 5.5 The SPSO has for the first time reported the number of cases which were not investigated because the organisation concerned had demonstrated good complaint handling in its response to the customer. On this basis, the SPSO chose not to investigate 16 of the cases brought against the Council. This represents 39% of all cases brought against the Council and 62% of those which were subject to early resolution.

Designation: Executive Chief Officer, Performance and Governance

Date: 28 May 2021

Author: Miles Watters

Appendix 1

Local Authority Complaints Received 2020-21

Subject Group	The Highland Council			All local authorities		
	Number received	Rank	%	Number received	Rank	%
Planning	14	1	35.90%	115	3	12.09%
Housing	7	2	17.95%	232	1	24.40%
Finance	6	3	15.38%	68	5	7.15%
Education	2	4=	5.13%	109	4	11.46%
Environmental Health & Cleansing	2	4=	5.13%	62	7	6.52%
Social Work	2	4=	5.13%	135	2	14.20%
Land & Property	1	7=	2.56%	12	10	1.26%
Roads & Transport	1	7=	2.56%	63	6	6.62%
Welfare Fund - Crisis Grants	1	7=	2.56%	3	16=	0.32%
Building Control	0			6	12	0.63%
Consumer Protection	0			4	13=	0.42%
Economic Development	0			4	13=	0.42%
Fire & Police Boards	0			3	16=	0.32%
Legal & Admin	0			54	8	5.68%
National Park Authorities	0			2	19=	0.21%
Other	0			9	11	0.95%
Personnel	0			4	13=	0.42%
Recreation & Leisure	0			13	9	1.37%
Valuation Joint Boards	0			2	19=	0.21%
Welfare Fund - Community Care Grants	0			3	16=	0.32%
Subject unknown or Out of Jurisdiction	3		7.69%	48		5.05%
Total	39		100.00%	951		100.00%
<i>Complaints as percentage of sector</i>	4.10%			100.00%		

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%
Total	56		100.00%	1,327		100.00%
<i>Complaints as percentage of sector</i>	4.22%			100.00%		

Appendix 2 – Local authority complaints determined

Stage	Outcome Group	2020-21		2019-20	
		The Highland Council	Local Authority sector	The Highland Council	Local Authority sector
Advice	Discretion – alternative action proposed	0	1	16	491
	Organisation not in jurisdiction	0	1		
	Premature	7	244		
	Subject matter not in jurisdiction	0	1		
	Unable to proceed	6	140		
	Total	13	387		
Early Resolution	Cause and impact test not met (s5(3))	1	7	34	673
	Discretion – alternative route used or available	0	7		
	Discretion – insufficient benefit would be achieved by investigation	3	85		
	Discretion – alternative action proposed	1	17		
	Discretion – good complaint handling	16	291		
	Discretion – referred back	2	25		
	Member of the public test not met (s5(6))	0	1		
	Premature	0	11		
	Right of appeal to court/tribunal/Scottish ministers (s7(8))	0	8		
	Subject matter not in jurisdiction	2	23		
	Time limit (s10)	0	7		
	Unable to proceed	1	21		
	Total	26	503		
	Investigation	Fully upheld	1		
Not upheld		1	22		
Some upheld		0	12		
Total		2	63		
Total Complaints		41	953	53	1,249