

Agenda Item	11
Report No	AS/13/22

THE HIGHLAND COUNCIL

Committee: Audit and Scrutiny Committee

Date: 28 September 2022

Report Title: **Annual Report of Scottish Public Services Ombudsman Cases determined in 2021/22**

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 2021/22 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 2020/21.
- 1.2 52 cases were determined by the Ombudsman in the period covered by this report. Of those only 1 was upheld. This compares with 41 cases considered by the SPSO in the previous year, of which 1 was upheld and 1 was not upheld. The number of premature cases has risen from 7 to 12 over the same period. This is the first increase since 2015/16 but is well below the 36 premature cases that the SPSO received that year. The SPSO, at her discretion, chose not to investigate 22 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;

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 2021/22 and 2020/21 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 in 2021/22 and 2020/21.

5.3 52 cases were considered by the Ombudsman in the period covered by this report, 11 more than in the previous year where the numbers were lower than usual as a result of the Covid pandemic. Of those, only 1 was taken forward for full investigation. These low numbers are evidence that the Council's complaint handling procedure has been effectively employed. The case which was taken forward for full investigation is currently under review by the SPSO and the case has been re-opened. Full details of this case will be reported to the Audit & Scrutiny Committee once the review has concluded.

5.4 The number of premature cases has risen for the first time since 2015/16. In 2015/16 there were 36 premature cases representing 46.2% of all of the cases raised with the SPSO. Since then, the number has reduced year on year down to 7 cases in 2020/21 which represented 17.1% of cases. The 12 premature cases in 2021/22 represents 23.1% of cases. A low number of premature cases indicates that the Council has effective signposting to ensure customers know when and how to make complaints to the Council and when it is appropriate to escalate a complaint to the SPSO if they are dissatisfied with the Council's response. This figure will be kept under review to see if any future action is required in relation to improving signposting.

5.5 In 2020/21, the SPSO began to report the number of cases which were not investigated because the organisation concerned had demonstrated good complaint handling in its response to the customer. In 2021/22, the SPSO chose not to investigate 22 of the cases brought against the Council because of good complaint handling. This represents 42.3% of all cases brought against the Council and 64.7% of those which were subject to early resolution. This statistic reflects well on the standard of the Council's responses to the complaints it received.

Designation: Executive Chief Officer, Performance and Governance

Date: 07 September 2022

Author: Miles Watters

Appendix 1

Local Authority Complaints Received 2021-22

Subject Group	The Highland Council			All local authorities		
	Number received	Rank	%	Number received	Rank	%
Housing	11	1	20.37%	284	1	23.89%
Roads & Transport	9	2	16.67%	98	6	8.24%
Finance	6	3=	11.11%	82	7	6.90%
Planning	6	3=	11.11%	161	2	13.54%
Social Work	6	3=	11.11%	139	3	11.69%
Education	5	6	9.26%	135	4	11.35%
Environmental Health & Cleansing	3	7	5.56%	107	5	9.00%
Economic Development	1	8=	1.85%	11	10=	0.93%
Legal & Admin	1	8=	1.85%	55	8	4.63%
Other	1	8=	1.85%	10	12=	0.84%
Building Control	0			10	12=	0.84%
Consumer Protection	0			2	18=	0.17%
Fire & Police Boards	0			3	17	0.25%
HSCP - Social Work	0			2	18=	0.17%
Land & Property	0			15	9	1.26%
National Park Authorities	0			2	18=	0.17%
Personnel	0			5	15=	0.42%
Recreation & Leisure	0			11	10=	0.93%
Valuation Joint Boards	0			6	14	0.50%
Welfare Fund - Crisis Grants	0			5	15=	0.42%
Subject unknown or Out of Jurisdiction	5		9.26%	46		3.87%
Total	54		100.00%	1,189		100.00%
<i>Complaints as percentage of sector</i>	4.54%			100.00%		

Local Authority Complaints Received 2020-21

Subject Group	The Highland Council			All local authorities		
	Number	Rank	%	Number	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%		

Appendix 2

Local Authority Complaints Determined

		2021-22		2020-21	
Stage	Outcome Group	The Highland Council	Local Authority sector	The Highland Council	Local Authority sector
Advice	Member of the public test not met (s 5 (6))	0	1	0	0
	Discretion – alternative action proposed	0	0	0	1
	Organisation not in jurisdiction	0	0	0	1
	Premature	12	296	7	244
	Subject matter not in jurisdiction	0	0	0	1
	Unable to proceed	5	143	6	140
	Total		17	440	13
Early Resolution	Cause and impact test not met (s 5 (3))	0	13	1	7
	Discretion – Insufficient benefit would be achieved by investigation	2	104	3	85
	Discretion – alternative action proposed	0	8	1	17
	Discretion – Alternative route used or available	2	7	0	7
	Discretion - Good complaint handling	22	383	16	291
	Discretion – referred back	4	42	2	25
	Discretion - Resolved - both parties satisfied with proposed outcome	0	13	0	0
	Member of the public test not met (s 5 (6))	1	7	0	1
	Organisation not in jurisdiction	0	1	0	0
	Premature	1	6	0	11
	Right of appeal to court/tribunal/Scottish ministers (s 7 (8))	0	6	0	8
	Subject matter not in jurisdiction	0	18	2	23
	Time limit (s 10)	2	18	0	7
	Unable to proceed	0	20	1	21
Total		34	646	26	503
Investigation	Fully upheld	1	14	1	29
	Not upheld	0	10	1	22
	Outcome not achievable	0	1	0	0
	Resolved	0	2	0	0
	Some upheld	0	11	0	12
	Total		1	38	2
Total Complaints		52	1124	41	953