

Agenda Item	11
Report No	AS/19/23

THE HIGHLAND COUNCIL

Committee: Audit and Scrutiny Committee

Date: 28 September 2023

Report Title: Annual Report of Scottish Public Services Ombudsman Cases determined in 2022/23

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 2022/23 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 2021/22.
- 1.2 58 cases were determined by the Ombudsman in the period covered by this report compared to 52 cases considered by the SPSO in the previous year. Of the 58 cases only 1 was upheld. The SPSO, at her discretion, chose not to investigate 16 of the 58 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 number of complaints regarding the Council considered by the SPSO.

3. Implications

3.1 Resource

A focus on improving performance in handling customer complaints reduces the cost to the Council of managing failure demand.

- 3.2 **Legal**
The Council is a listed authority under the Scottish Public Services Ombudsman Act 2002. The Council is required to have a complaints handling procedure in place and to cooperate with the SPSO in relation to investigations.
- 3.3 **Community (Equality, Poverty, Rural and Island)**
There are no new implications arising from this report relating to Equality, Poverty, Rurality or the Islands.
- 3.4 **Climate Change / Carbon Clever**
There are no new Climate Change implications arising from this report.
- 3.5 **Risk**
A focus on improving performance in handling customer complaints reduces the Council's risk of public exposure to criticism.
- 3.6 **Health and Safety (risks arising from changes to plant, equipment, process, or people)**
There are no new Health and Safety implications arising from this report.
- 3.7 **Gaelic**
There are no new implications arising from this report relating to the Gaelic language.

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 2022/23 and 2021/22 alongside the total of Scottish local authority complaints for those years. This shows that the number of complaints received about the Highland Council continues to be low with a total of 57 in 2022/23. This represents 5.42% of all Scottish local authority complaints received by the SPSO and 6.31% of the 904 validated requests received by the Council.
- 5.2 Housing continues to be most common topic of complaint raised with the SPSO. However, the number of complaints about education have increased in 2022/23 compared to previous years while the number of complaints about roads and transport has decreased. These trends can also be seen in the Council's data with regard to the complaints handled through the Customer Resolution and Improvement Team.
- 5.3 **Appendix 2** shows the outcomes of complaints about the Highland Council determined by the SPSO in 2022/23 and 2021/22.
- 5.4 58 cases were considered by the Ombudsman in the period covered by this report, 6 more than in the previous year. These figures are similar to those received prior to the

Covid pandemic. In 2021/22, 1 case was taken forward for full investigation and was upheld. The Council requested a review of that decision. The final decision, to continue to uphold the complaint, was reported to the Audit & Scrutiny Committee on 23rd March 2023. Therefore, it should be noted that, in the 2 financial years covered by this paper, it is the same case shown that resulted in a decision against the Council. This also explains why 58 cases were determined in 2023 where Appendix 1 indicates that only 57 cases were received.

- 5.5 In 2021/22 the number of premature cases had risen for the first time in a number of years but in 2022/23, this figure has dropped to 4 which is a more acceptable proportion of the cases raised with the SPSO. 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.
- 5.6 The SPSO reports the number of cases which were not investigated because the organisation concerned had demonstrated good complaint handling in its response to the customer. In 2022/23, the SPSO chose not to investigate 16 of the cases brought against the Council because of good complaint handling. This is lower than in 2021/22 but it represents 28% of all cases brought against the Council and 47% 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: 14 September 2023

Author: Miles Watters, Performance and Information Governance Manager

Background Papers:

Appendices:

Appendix 1 – Local authority complaints received

Appendix 2 – Local authority complaints determined

Appendix 1

Local Authority Complaints Received 2022-23

Subject Group	The Highland Council			All local authorities		
	Number received	Rank	%	Number received	Rank	%
Housing	14	1	24.56%	250	1	23.79%
Education	10	2	17.54%	140	2	13.32%
Planning	8	3	14.04%	115	4	10.94%
Social Work	6	4	10.53%	124	3	11.80%
Finance	4	5	7.02%	77	7	7.33%
Environmental Health & Cleansing	3	6=	5.26%	85	5	8.09%
Legal & Admin	3	6=	5.26%	57	8	5.42%
Land & Property	2	8=	3.51%	13	10	1.24%
Roads & Transport	2	8=	3.51%	79	6	7.52%
Personnel	1	10	1.75%	6	13=	0.57%
Recreation & Leisure	0			23	9	2.19%
Building Control	0			10	11	0.95%
Consumer Protection	0			7	12	0.67%
Economic Development	0			6	13=	0.57%
Other	0			5	15	0.48%
Fire & Police Boards	0			3	16=	0.29%
Valuation Joint Boards	0			3	16=	0.29%
National Park Authorities	0			2	18=	0.19%
Welfare Fund - Crisis Grants	0			2	18=	0.19%
Welfare Fund - Community Care Grants	0			1	20	0.10%
Subject unknown or Out of Jurisdiction	4		7.02%	43		4.09%
Total	57		100.00%	1,051		100.00%
<i>Complaints as percentage of sector</i>	5.42%			100.00%		

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%		

Appendix 2

Local Authority Complaints Determined

		2022-23		2021-22	
Stage	Outcome Group	The Highland Council	Local Authority sector	The Highland Council	Local Authority sector
Advice	A&G - Complaint submissions - mature	5	62	0	0
	A&G - Complaint submissions - premature	4	148	12	296
	A&G - Enquiries	14	209	0	0
	Organisation not in jurisdiction	0	4	0	0
	Unable to proceed	0	1	5	144
			23	424	17
Early Resolution	Cause and impact test not met (s 5 (3))	2	17	0	13
	Discretion – Insufficient benefit would be achieved by investigation	7	152	2	104
	Discretion – alternative action proposed	1	22	0	8
	Discretion – Alternative route used or available	1	13	2	7
	Discretion - Good complaint handling	16	331	22	383
	Discretion – referred back	0	29	4	42
	Discretion - Resolved - both parties satisfied with proposed outcome	1	10	0	13
	Member of the public test not met (s 5 (6))	0	7	1	7
	Organisation not in jurisdiction	0	3	0	1
	Premature	0	4	1	6
	Right of appeal to court/tribunal/Scottish ministers (s 7 (8))	2	23	0	6
	Subject matter not in jurisdiction	2	25	0	18
	Time limit (s 10)	1	25	2	18
	Unable to proceed	1	41	0	20
	Total		34	702	34
Investigation	Fully upheld	1	11	1	14
	Not duly made or withdrawn	0	1	0	1
	Not upheld	0	4	0	10
	Resolved	0	1	0	2
	Some upheld	0	8	0	11
	Total		1	25	1
Total Complaints		58	1151	52	1124