

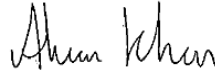
London Borough of Waltham Forest

Report Title Ombudsman Housing Complaints and Complaints Improvement Plans

Meeting / Date Cabinet, 9th May 2024

Cabinet portfolio Councillor Grace Williams,
Leader of the Council

Councillor Ahsan Khan,
Deputy Leader (Housing
and Regeneration)



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Wards affected All

Public access Open

Appendices Appendix 1 - Complaints SARs FOIs - An Update to
Members

Appendix 2 - Equalities Assessment

1. Summary

1.1 This report provides Cabinet with an overview of Housing Ombudsman (HO) and housing-related Local Government and Social Care Ombudsman (LGSCO) complaints upheld against the council, alongside improvement plans for our corporate complaints service. The report summarises the HO's current approach to investigating resident complaints and resolving disputes between residents and landlords. It goes on to outline trends/patterns in complaints upheld against the council, the risks these findings present to the council, and the mitigations that are being put in place.

2. Recommendations

2.1 Cabinet is recommended to:

2.1.1 Note trends and patterns in Housing complaints upheld by the Housing Ombudsman and Local Government and Social Care Ombudsman.

2.1.2 Note steps being taken to address issues raised by the Ombudsman and to mitigate against future complaints against the council.

2.1.3 Note improvement plans for the corporate complaints service outlined in Appendix 1.

3. Proposals

- 3.1 The HO deals with complaints relating to our role as a Social Housing Landlord, including repairs to our council homes and our services to council tenants and leaseholders. The HO was given a new set of powers under the Social Housing (Regulation) Act 2023 to issue wider orders, allowing it to not only address individual complaints, but also to monitor compliance with the new statutory code and extend fairness and protection to a wider set of residents. While previously the HO would make recommendations, the HO is now able to order a landlord to evaluate a particular policy or practice to prevent service failure being repeated.
- 3.2 The HO has greatly increased its output. Many landlords are seeing a significant increase in determinations and the HO is acting robustly in publishing maladministration findings, exposing landlords to heightened resident, peer, and public scrutiny.
- 3.3 On 1st February 2024 an Ombudsman release made public details of three cases of 'severe maladministration' found against Waltham Forest Council. In severe maladministration cases it has been determined by the HO that residents have experienced problems over an extended period and there have been missed opportunities by the Council to resolve them. On 22nd March 2024 the Secretary of State wrote to the Chief Executive of the Council outlining concerns regarding these three severe maladministration cases. The council has also been notified of a fourth case of Severe Maladministration which is included in this report.
- 3.4 The HO has also published special investigation reports into several London councils. These reports follow an investigation by the HO beyond an individual complaint to establish whether there is any evidence of wider issues.
- 3.5 The HO has recently published several Spotlight Reports on the sector identifying key complaint themes including damp and mould, knowledge and information management, and vulnerabilities. Responding in a comprehensive way to the recommendations in these reports is an important means by which the Council can protect against future complaint escalations.
- 3.6 The LGSCO deals with all other local authority related complaints not under the remit of the HO. For Housing Services, these are typically complaints relating to housing needs, homelessness, and temporary accommodation.

Ombudsman findings since 2020

- 3.7 We recently commissioned the Housing Quality Network (HQN) to carry out an independent audit of all housing-related Ombudsman cases over the last four years to identify themes. It should be noted that the Housing Ombudsman has been working to clear a significant backlog of cases which means there is usually a time lag of several months or years from when issues occur to when findings are published.

HO Complaints since 2020

LBWF Housing Ombudsman determinations						
Year received	No. of cases	Severe Maladministration findings (Can be more than 1 per case)	Maladministration findings (Can be more than 1 per case)	Service Failures	Reasonable redress	No Maladministration
2020/21	7	0	0	4	0	6
2021/22	11	0	2	3	2	8
2022/23	9	0	0	2	6	3
2023/24	18	5	24	13	3	6

LGSCO complaints since 2020:

Local Government and Social Care Ombudsman determinations			
Year received	Housing Cases	Cases Upheld (Partially or in full)	Cases Upheld (%)
2020/21	12	5	42
2021/22	20	6	30
2022/23	19	7	37
2023/24	10	5	50

Note: LGSCO does not use maladministration/severe maladministration categorisation so number of cases and '% upheld' is shown.

Recent Severe Maladministration Findings

- 3.8 As can be seen from the table above, the HO has several different categories of finding it can issue, the most serious being 'severe maladministration'. It should be noted that recent findings of severe maladministration by their very nature relate to historic failings. The requirement of cases to pass through council and Ombudsman procedures before an outcome is determined means there will always be a lag between issues being raised and findings published.
- 3.9 We have received five recent findings that could attract media attention because they are either severe maladministration (HO cases) or they are deemed to be of public interest (LGSCO cases).

Housing Ombudsman Severe Maladministration Cases

3.10 We have had four cases since May 2023 across which the HO found five findings of severe maladministration:

Date received	Complaint definition	Order & recommendations	Status
May 2023	<p>Case took place between Sept 2016 – May 2021:</p> <ul style="list-style-type: none"> • Handling of ASB • Request to Move •Complaints Handling 	<ul style="list-style-type: none"> • Apology from CEO • £11,300 compensation • Full senior management review of the case 	All actions completed & case closed.
Nov 2023	<p>Case took place between March 2014 and December 2021:</p> <ul style="list-style-type: none"> • Handling of succession application • Handling of request for compensation 	<ul style="list-style-type: none"> • Apology from CEO • £4,700 Compensation • Review of interdepartmental communication • Review of actions following a death • Provision of tenancy audit schedule • Review method of checking letters to residents 	All actions completed & case closed
Dec 2023	<p>Original complaint received October 2022:</p> <ul style="list-style-type: none"> • Repairs to the windows • Works to resolve damp and mould. • The kitchen refurbishment. • The bathroom refurbishment and resolution of a leak •Complaint handling •Record Keeping. • Case took place between May 	<ul style="list-style-type: none"> • Apology from member of senior leadership team • £2,737 compensation • Determination of severe maladministration was in respect of damp & mould works only. Other elements of the complaint were considered to be maladministration. • Recommendations include joint review with contractor, review of complaint response 	<ul style="list-style-type: none"> • All actions complete and sent to HO on time (26/01/2024), including review with contractor held on 12/01/2024 • Outstanding works now complete and resident has expressed satisfaction with quality. • Settlement reached with resident on damages although additional examples continue to arise owing to mould damage which we are responding to case-by-case.

	2021 and September 2023	times, review of method to log repairs, review of approach to compensation.	
Jan 2024	<p>Case took place between November 2017 – December 2023:</p> <p>2 Severe Maladministration findings: 1 for Repairs and 1 for Complaints Handling.</p> <ul style="list-style-type: none"> • Multiple repair issues • Works to resolve damp and mould. • Insurance claim on damaged belongings • Pest infestation control • Garage asbestos checks 	<p>Recommendations include:</p> <ul style="list-style-type: none"> • Apology from member of senior leadership team • £8,500 compensation, • decision on reimbursing cost of new carpet • All outstanding repairs raised have been completed. • Explain who is responsible for replacement of fence. • Carry out asbestos safety checks and take action. • Undertake pest control works. 	<p>HO determination received 30 January 2024.</p> <ul style="list-style-type: none"> • All actions complete except repairs/remedial works themselves; this action now overdue. • Updates have been provided to HOS to account for progress / delays. • Delays are because of access issues which began before Christmas • Further inspection to establish exhaustive list of repairs was scheduled with resident and undertaken in February, however resident was not present. • Plan of works was supplied to resident following inspection including sequencing and indicative timescales, but scope/extent has again been questioned by resident despite assurances on substantive elements and that we will be flexible in raising additional works orders as the works begin. • We are continuing to engage with the resident to offer her the necessary assurances. • Morgan Sindall is ready to begin works and has indicated they could finish works within 1 month once access permitted

3.11 LGSCO – Public Interest

We received draft notification of a 'Public Interest Case' at the end of November 2023 the final determination was issued on 29 January 2024 and the case was published by the Ombudsman on 29 February 2024. A Public Interest Case is where the LGSCO think it is important to raise

awareness of an investigation. The LGSCO found several failures in our handling of a homelessness case beginning in August 2022, in particular issues with delays in decision making and complaint handling:

Date received	Complaint definition	Order & recommendations	Status
May 2023	<p>Delay in accepting a relief duty</p> <p>Not providing interim accommodation when the Council had reason to believe resident may be homeless, eligible for assistance and in priority need;</p> <p>Ending the relief duty without giving a statutory reason and then delaying making the decision on the main housing duty;</p> <p>Delaying a referral to the children's services department for assistance.</p>	<p>Apology and compensation payment of £6,000</p> <p>Remind relevant staff of our statutory duty to provide interim accommodation if it has "reason to believe" an applicant may be homeless, eligible for assistance, and in priority need;</p> <p>Provide the Ombudsman with evidence to show the actions it is taking to procure sufficient interim accommodation, including larger properties for families, is making a difference.</p> <p>Explain what steps we have taken to reduce the delays in making homelessness decisions caused by staffing shortages; and</p> <p>Provide an action plan on how we will address the delays at stage 2 of its complaint process to ensure it responds within its published timescales.</p>	<p>Letter of apology sent 19.3.24 including details of compensation payment. The findings of the report were included in an update to Leaders Board on 6th February and Housing Scrutiny Committee on 17th April ahead of May Cabinet 2024.</p> <p>Homelessness training for staff is scheduled for 3rd and 10th April 2024.</p> <p>A written summary of actions is being prepared and will be submitted within the 6-month deadline.</p> <p>Written summary will include information on steps to reduce delays in making homelessness decisions caused by staffing shortages.</p> <p>A corporate Action plan is in place to address delays in Stage 2 complaints (see appendix 1).</p>

Themes from HO Maladministration and Severe Maladministration cases.

3.12 Complaints Handling

Most complaints upheld in 23/24 resulted in findings of maladministration or service failure for how we have handled complaints:

- Taking too long to respond to complaints in breach of the Ombudsman's guidance.
 - Complaints being investigated as service requests rather than as formal complaints.
 - Failure to make proper apologies and explanations in responses.
 - Failure to follow own complaints policy.
 - Lack of communication with complainants.
 - Failure to gather full information available before responding.
 - Lack of clarity in responses.
 - Failure to award appropriate compensation.
- 3.13 The HO has publicly recognised the progress we have made as a council in handling Stage 1 complaints, but we still have some significant performance issues around Stage 2 complaints, which put us at serious risk.

3.14 *Repairs*

A finding of severe maladministration specifically related to damp and mould highlighted the need for a “zero tolerance” approach to damp and mould which we are still in the process of establishing: “...landlords should have a zero-tolerance approach to damp and mould interventions therefore, the delay was inappropriate.”

- 3.15 Nearly all cases of maladministration have become problematic owing to the impact of one or more of the following:
- A failure of contractors to coordinate works of a multi-trade nature effectively, which has also been highlighted in corresponding Stage 1 and Stage 2 complaints analysis.
 - A lack of effective project management and/or case ownership and oversight from the council's Housing Assets team. “The evidence shows that the landlord failed to plan, and project manage the works effectively.”
 - Poor quality works, or errors/omissions in delivering against the works specification.
 - A failure to adequately consider and address underlying or root cause factors, instead preferring a reactive model to responding to disrepair through, for instance, multiple mould washes or basement pumping rather than more sustainable solutions to prevent water ingress.
 - Inadequacies in record keeping and handling information making it very challenging to offer mitigation or a compelling narrative when presenting back to the HO.

Housing Management

- 3.16 Three determinations relate to how the council has responded to reports of Anti-Social Behaviour (ASB), one of which was the severe

maladministration finding included above (Table 3.9). The key issues highlighted by these cases have been:

- Failure to update risk assessments as the case progresses.
- Failure to document the action plan being followed for the case and share this clearly with the resident.
- General failures of record keeping meaning we couldn't demonstrate compliance with our procedure.
- Failure to work effectively with partners when trying to resolve ASB cases.

3.17 Our new ASB procedure developed with the support of HQN is designed to address these weaknesses.

3.18 In addition to the ASB cases there have been two cases related to how we manage decants. A new decant process has been agreed and monthly meetings take place to ensure these cases are tracked and progressed.

3.19 There was one severe maladministration case related to our management of successions as listed above.

Themes from LGSCO Maladministration Findings

3.20 Findings of fault and injustice tended to relate to homelessness or allocations (though there were findings in relation to ASB, tree management and domestic abuse).

3.21 Themes included:

- Delays in investigations or responses.
- Failure to investigate complaints properly
- Failure to implement actions agreed with complainants.
- Failure to properly consider vulnerability of individuals.
- Failure to follow own procedures.
- Poor record keeping

3.22 Our record at implementing LGSCO recommendations was evaluated by HQN as being excellent.

Future Maladministration findings

3.23 We can expect further maladministration and severe maladministration findings to be published in the coming weeks and months as the HO clears a backlog of 14 cases. Cases currently awaiting determination cover a range of repair issues including water damage and planned maintenance, as well as some further cases concerning ASB. In each of these cases, the Housing Services team is working with the Corporate Complaints team to ensure we have all case issues addressed prior to findings being published.

3.24 The Housing Ombudsman on 8th February published a new statutory Complaints Handling Code to come into effect from 1st April 2024. The

code sets out good practice that would enable Councils to resolve complaints raised by their residents quickly and to use the learning from complaints to make service improvements. We are required to carry out an annual assessment against the Code to ensure our complaint handling complies with its requirements and publish the results. Non-compliance could result in the Ombudsman issuing complaint handling failure orders. The LGSCO is also currently developing a new code and councils have been given up to April 2026 to adopt the Code successfully into working practices.

Risks to the Council

- 3.25 As well as evidencing serious service failure and resulting in some very difficult experiences for our residents, cases upheld by the Ombudsman present some serious risks to the council. These are summarised below:

Regulation

- 3.26 The new Social Housing Regulator will closely be monitoring the work of the HO and will very likely use complaints data to prioritise inspection of local authorities. This could result in further intense scrutiny of the council's Housing service and corporate governance.

Financial

- 3.27 As well as the Ombudsman's power to make individual awards to complainants, the Regulator has the power to levy unlimited fines for poor performance.

Reputational

- 3.28 The HO is increasingly active in sharing severe maladministration findings in public and in the press. Severe maladministration findings against Waltham Forest are now being publicised and we will need to ensure we provide a measured communications response. There is also a risk that should a high number of cases upheld by the Ombudsman, and patterns of failure identified in specific services, an in-depth investigation by the Ombudsman could be triggered into our service delivery or complaint handling in general. There have been recent examples of this with other housing providers which have led to significant public scrutiny e.g., HO Investigations into Camden Council, Hackney Council and Hyde Group after casework showed all three landlords struggling with damp and mould, repairs, and complaint handling.

Mitigation

- 3.29 To mitigate the above risks:
- We are ensuring we can evidence continuous improvement of our service provision through the Housing Transformation Programme and other service improvement initiatives, in particular in relation to ASB and Damp and Mould. The best way to avoid future complaints is to ensure we deliver the excellent service our resident deserve.

- We have established a Damp & Mould Taskforce and a 'zero tolerance' approach to damp and mould to ensure issues are dealt with without delay.
- We are implementing a new Access Policy to address barriers to carrying out important repairs.
- We are developing a new Vulnerability Policy to ensure we are taking circumstances of individual residents properly into account.
- For cases where we are awaiting the Ombudsman's judgment, ensuring we are taking all necessary actions to resolve issues and mend relationships with residents.
- We are regularly reporting on complaints trends within housing services with a tracker in place for all actions being monitored by Housing Strategic Leadership Team (HSLT).
- We are ensuring we are improving repairs performance through:
 - Reducing repairs backlogs
 - Requiring of Morgan Sindall that better controls and supplier coordination measures are in place to ensure progression of works beyond the initial attendance/inspection.
 - Addressing keeping and changing appointments at Morgan Sindall through Contract Management.
 - Developing a complex case tracker to ensure greater focus on complex repairs.
 - Delivering coaching around customer service at Morgan Sindall to promote consistency.
 - Being more proactive in terms of picking up trends which could indicate wider service failures including listening to calls and identifying value and failure demands.
 - Currently we do not ask for comments when residents respond positively to TSMs. However, we do get 4.1/5 for the Rant and Rave responses indicating that overall customers are satisfied with the repair service.
 - Introduction of a new post inspection regime in September 2023 to assess quality of works.
- We are ensuring all upheld ombudsman cases discussed at strategic level at HSLT and Housing PLM and severe maladministration cases and complaints performance will be discussed at SLT, Leaders Board and Audit and Governance committee.
- We are continuing our work with HQN, who have carried out an independent audit of all of our Ombudsman cases. HQN's audit identified trends and lessons and they facilitated a workshop with the Housing Extended Leadership Team to ensure we have the requisite organisational focus on case management and lessons learned.

- We are continuing to build a positive working relationship with the HO, communicating directly on a case-by-case basis and participating in service improvement work across the sector. e.g., Speaking alongside HO at Knowledge and Information Management Conference. We were also one of the first boroughs to host a ‘meet the ombudsman’ event in 2021, and we registered our interest in May 2023 we registered our interest in having the Housing Ombudsman visit the borough again to undertake a workshop with tenants. Members will be made aware when the next event is arranged.
- We are continuing our focus on resolving complaints at Stage 1 and taking a more empathetic and proactive approach at the earliest possible stage where failures are identified. We are training our teams to be transparent and empathetic in how they respond to complaints, recognising fault where it occurs and acting swiftly to address issues and provide appropriate compensation. In April 2023 we carried out a process mapping review of our stage 1 complaints process within the Housing service and this has resulted in significantly improved turnaround time. Our efforts to improve complaints handling at stage 1 have been publicly cited as an example of good practice by the HO.
- Complaints handling training was held for staff on 12th March focusing on the HO new complaints handling code. Training was designed to ensure staff understand complaints are everyone's responsibility & the importance of knowing how to direct people to complaints procedure if necessary.
- We are transforming the way we handle and manage complaints, SARs, and FOIs at corporate level by delivering an improvement plan which is set out in detail in Appendix 1. The improvement plan was discussed with Leader's Board on 6th February 2024 and the detailed plan ratified by SLT on 4th March 2024. Within the plan a number of quick wins to the existing process will be implemented by the end of July 2024 with a brand-new Complaints, SARs and FOI solution in place by December 2024.

4. Options & Alternatives Considered

- 4.1 Other alternatives not considered in this case. We are required by both Ombudsmen to provide a comprehensive response to issues raised. Failure to respond will result in reputational damage to the council as well as fines and compensation payments to residents.

5. Council Strategic Priorities (and other National or Local Policies or Strategies)

- 5.1 Our vision for borough, Mission Waltham Forest, is to create, “*A more equal borough, where everyone can make the most of their strengths to live the life they want to lead*”. It sets out a series of borough and council missions to respond to issues that matter most to residents and introduces a radical shift to a new way of working where our staff lead

the way in delivering an outstanding experience for every resident who needs our help.

6. Consultation

- 6.1 We commissioned HQN to engage with a total of 10 randomly selected tenants to gather their views and experiences of our complaints and member enquiries services. The results of the study have been used to inform the development on our improvement programme within Housing services.
- 6.2 In addition, we have instructed KWest, a market research company to conduct a survey of our tenants to collect their views and perceptions of the landlord services they have received. The survey information generated will help residents to be able to scrutinise our performance against the subset of Benchmarked Tenant Satisfaction Measures (TSMs). As well as informing the regulator about how we are complying with the new Consumer Standards for the sector, KWest surveys give us an independent resident perspective on the impact of our service improvement programmes.
- 6.3 A draft version of this report was discussed and approved by Housing Scrutiny Committee on the 17th of April 2024.

7. Implications

7.1 Finance, Value for Money, and Risk

The HO and LGSCO both have the power to award compensation to complainants where complaints are upheld. No other direct financial implications form this report.

7.2 Legal

- 7.2.1 The HO was established under section 51 of the Housing Act 1996 as amended by the Localism Act 2011, and the Housing Ombudsman Scheme (the Scheme) was approved by the Secretary of State. The HO carries out quasi-judicial statutory functions in relation to investigating complaints and has wide powers to direct action be taken by local authorities. HO's powers and duties stem from S51 of, and Schedule 2 to, the Housing Act 1996
- 7.2.2 In accordance with the Scheme) the role of THO is to resolve disputes involving members of the Scheme, including making awards of compensation or other remedies when appropriate, and to support effective landlord-resident dispute resolution by others.
- 7.2.3 The LGSCO has a similar role to the HO although it was first established a single regulator under the Local Government Act 1974. It can investigate complaints from members of the public about most council services, even if the service is outsourced to another organisation to provide, and also privately funded adult social care. The LGSCO looks at whether there is fault in the way organisations make decisions, but

does not consider those matters specifically referred to the HO. The Code issued under the Local Government and Social Care Ombudsman's powers is to provide "guidance about good administrative practice" to organisations under section 23(12A) of the Local Government Act 1974. This Code constitutes important advice and guidance to councils, rather than instructions. The LGSCO can recommend action to improve services or provide a personal remedy where it finds fault causing injustice to an individual or group of individuals. Unlike the HO, the LGSCO has no specific responsibility for monitoring compliance with the Code in addition to its' role of investigating complaints of maladministration and service failure.

- 7.2.4 Section 5 of the Local Government and Housing Act 1989 (the Act) Act provides that it is the personal duty of the Monitoring Officer to report formally to the Council on any proposal, decision or omission by the Council, which has given rise to, or is likely to, or would give rise to, the contravention of any enactment, rule of law or statutory code of practice, including maladministration or service failure under LGA 1974 where LGSCO has investigated
 - 7.2.5 If the Monitoring Officer were to take their S5 duties literally, they would be required to report on a whole range of detailed matters, so some selectivity is required. In practice, the Monitoring Officer would not normally make a statutory report, despite the fact that the duty may strictly apply, in the following circumstances:
 - 7.2.6 Where the authority has already set up a system for dealing with such breaches – Such assurance has is set out within the body of this report.
 - 7.2.7 where the matter is already being reported to Council (or to Cabinet, a committee or sub-committee) as is the case in relation to this report with a report to both the relevant Scrutiny Committee and Cabinet
 - 7.2.8 Accordingly the Monitoring Officer is satisfied that the S5 duty is not triggered by the various HO and LGSCO decisions referred to in this report.
- 7.3 Equalities and Diversity

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding. Sustainability (including climate change, health, crime and disorder). An equalities impact assessment is not required in relation to this report as we are not proposing any changes to current service delivery.

7.3.1 An Equalities Impact Assessment has been completed to assess the impact of the proposed case management service improvements and is attached as an appendix.

7.4 Sustainability (including climate change, health, crime and disorder)
No direct implications.

7.5 Council Infrastructure (e.g., Human Resources, Accommodation or IT issues)

Procurement of the Corporate Case management system for the end-to-end management of Complaints, FOI's and SARs. The scope has been based on requirements gathered from all services. Soft market testing was undertaken on a number of solutions available on *GCloud* with demos of the top three products. From this, *Civica iCase* was identified as the most suitable solution based on the needs of the organisation. Procurement is ongoing and it has been decided that this will be a direct award; formal award proposed for mid-April 2024 subject to contracts.

Background Information (as defined by Local Government (Access to Information) Act 1985):

None