REPORT TO: General Purposes Committee  
DATE: 21 March 2019  
SERVICE AREA: Legal & Governance, Corporate Affairs  
REPORTING OFFICER: Head of Legal & Governance  
(Jennifer Norton)  
SUBJECT: OMBUDSMAN COMPLAINTS & INVESTIGATIONS 2018/19  
WARD/S AFFECTED: ALL DISTRICT  
FORWARD PLAN REF: N/A

1.0 PURPOSE OF REPORT  
1.1 This report summarises the complaints made to the ombudsman for the financial year 2018/19 and the outcome of any investigation.

2.0 RECOMMENDATION/S  
2.1 That Members note the complaints made and the outcome of any investigation.

3.0 RECOMMENDED REASON/S FOR DECISION/S  
3.1 To ensure transparency as to the complaints made and their outcome and to report on any lessons learned.

4.0 ALTERNATIVE OPTION/S CONSIDERED AND RECOMMENDED FOR REJECTION  
(Must be used for reports to Cabinet & Cabinet Members)  
4.1 None.

5.0 THE REPORT  
5.1 The Local Government and Social Care Ombudsman (LG&SCO) is the independent body responsible for investigating complaints made against public bodies where it is alleged that there has been maladministration causing injustice. The LG&SCO was previously known as the Local Government Ombudsman. This report also covers complaints to the Housing Ombudsman. The Housing Ombudsman Service looks at complaints about the housing organisations that are registered with it and
looks to resolve disputes involving the tenants and leaseholders of social landlords (housing associations and local authorities) and its voluntary members (private landlords and letting agents who are committed to good service for their tenants). Both ombudsman organisations work together and share information. 

5.2 The remit of the LG&SCO is wide and can cover a number of complaints about different issues, such as:

- Housing and council tax benefit claims
- Housing allocation schemes
- Planning
- Anti-social behaviour
- Council tax

The LG&SCO has the power to investigate complaints where there has been:

- Maladministration causing injustice
- A failure to provide a service that it was the public body’s function to provide
- There was a total failure to provide such a service.

There is no specific definition of “maladministration” but it can include cases where a public body has taken, or has failed to take, action (Section 26(1), Local Government Act 1974). Examples of maladministration include bias; incompetence; perversity; excessive and unreasonable delay; making misleading or inaccurate statements; failure to follow specified procedures or statutory procedures; failing to properly consult or liaise; failing to provide information when requested to do so; and failing to investigate or reply to a query from a member of the public.

5.3 The LG&SCO is only allowed to investigate the procedure behind the decision making. This means that the LG&SCO will not investigate cases where the complainant merely disagrees with a decision that has been made.

Once maladministration has been established, it must be confirmed that it has led to personal injustice for the complainant. Injustice can include:

- The time and trouble involved in pursuing a complaint against a public body
- The loss to a right or service, which the complainant is legitimately entitled to
- Costs associated with pursuing the complaint
- Inconvenience, worry, distress and hurt feelings

5.4 It must also be proved that the injustice was caused by the council and was not merely accidental.

There are a number of situations where the LG&SCO cannot investigate a complaint, including:
Where a complainant has not exhausted a local authority’s internal complaints procedure (i.e. ‘premature’) (although this may be dispensed with by the ombudsman in certain cases)

Where the complainant has, or has had, a right of appeal, reference or review or before a statutory tribunal or a Minister of the Crown

Where the complainant has, or has had, a remedy by way of court proceedings; for example, where a complainant has already submitted a judicial review application

Where the complainant has failed to make a complaint to the LG&SCO within 12 months of the matter complained of (although, there is discretion to extend this time limit.)

5.5 Upon receipt of a complaint the ombudsman carries out preliminary enquiries to establish whether it merits formal investigation. If it merits investigation the ombudsman notifies the council and invites representatives on the complaint together with requests for information and documentation relevant to the complaint.

Local settlement can also be used as a method for resolving complaints. Local settlement is where the public body or the ombudsman makes suggestions about how a complaint can be resolved before a full investigation is undertaken. If the complainant agrees to local settlement, the ombudsman will stop its investigation before issuing a report. Typically, this type of settlement will happen fairly early on in the ombudsman’s investigation.

The ombudsman must issue a report if they have finished the investigation of a complaint. This report can also include recommendations for action. However, if the ombudsman is satisfied with the actions that the council has decided to take or has already taken to deal with the complaint, it may choose not to send a full report, instead sending a statement of reasons for the decision not to issue a full report.

Remedies recommended by the ombudsman include requiring local authorities to:

- Apologise to a complainant
- Offer financial compensation. This may be appropriate where there is no practical remedy or where the complainant has suffered financial loss as a result of the injustice
- Review the procedure that led to the injustice.
- Offer additional training for public body staff
- Reconsider a decision
- Pay money where the injustice is that money (such as housing benefit) has not been paid
- Consider alternative specific remedies where the injustice has been caused by the loss of a non-monetary benefit, such as enjoyment of a property where the public body has failed to deal with noise nuisance in the area
- Make payments to the complainant in recognition of the time and trouble involved in pursuing the complaint
Appendix 1 lists the complaints received by the ombudsman and notified to the council from 1 April 2018 up to the date of writing this report.

6.0 REQUIRED ASSESSMENTS AND IMPLICATIONS

6.1 The following were considered: Financial Implications; Human Resources Implications; Legal Implications; ICT Implications; Strategic Property/Asset Management Considerations; Risk Assessment; Equality and Diversity (the Public Sector Equality Duty and impact upon people with protected characteristics). If applicable, the outcomes of any consultations, assessments, considerations and implications considered necessary during preparation of this report are detailed below.

Background Papers – Report to General Purposes Committee 22 March 2018; Code of Conduct for Members and Procedure for making a complaint against elected members.

OFFICER CONTACT: Please contact Jennifer Norton, if you require any further information on the contents of this report. The officer can be contacted at Harrogate Borough Council, Head of Legal & Governance, PO Bo 787, Harrogate, HG1 9RW 01423 556036 or by e-mail – Jennifer.norton@harrogate.gov.uk