

Eden District Council
Accounts and Governance Committee

27 September 2017

**Complaints and Compliments - Ombudsman's Annual
Report and the Council's own Procedure**

Portfolio:	Eden Development Portfolio
Report from:	Deputy Chief Executive
Wards:	All Wards
OPEN PUBLIC ITEM	

1 Purpose

- 1.1 To advise Members of the contents of the annual report which has been received from the Local Government and Social Care Ombudsman (the Ombudsman) upon complaints relating to the Council for the year ended 31 March 2018 and on complaints raised under the Council's own procedure.

2 Recommendation

It is recommended that Members note the comments made by the Local Government and Social Care Ombudsman in the Annual Report.

3 Report Details

- 3.1 Attached to this report, as Appendix 1, is the annual letter which has been received from the Ombudsman. Twelve enquiries and / or complaints were received by the Ombudsman in the reporting period which is 1 April 2017 to 31 March 2018. These related to Planning and Development, Environmental Services, Benefits and Tax and Corporate and Other Services. Ten decisions were made during the reporting period. Two investigations were referred back for local resolution (Benefits and Tax and Environmental Services and Public Protection and Regulation). Five investigations were closed after initial enquiries, as there was insufficient evidence of fault in the way the Council considered the matter (Environmental Services and Public Protection and Regulation and Planning and Development). Two investigations were not upheld (planning and development) and one was upheld (Corporate and Other Services).
- 3.2 The case which was upheld is attached as Appendix 2 to this report. The complaint related to a review of the Council's decision to restrict the complainant's access to services under the Unacceptable Behaviour Policy. In this case whilst some fault was found there was no significant injustice to the complainant and there were insufficient grounds to warrant further investigation.
- 3.3 The annual letter does not raise any particular concerns. The number of enquiries which have been referred to the Ombudsman varies over the years. There were eight enquiries in 2016 - 2017, eighteen enquiries in 2015 - 2016

(six related to the same planning application) and twelve enquiries in 2014 – 2015.

- 3.4 The Ombudsman has published details of complaints and enquiries received and decided about all local Councils in 2017 - 2018. A comparison of the complaints and enquiries received about Eden and other Cumbrian authorities is shown in the tables at Appendix 3
- 3.5 The Ombudsman, usually, would decline to consider a complaint unless the Council has had the opportunity of reviewing it through its own processes and procedures.

The Council's own Complaints Process

- 3.6 Complaints are considered in accordance with the Council's Corporate Complaints Policy. There is scope within the Policy for complaints to be dealt with informally and promptly in the first instance before they reach the stage of a formal complaint. We aim to respond to a formal stage one complaint in full within 10 working days. If, however, a complaint is complicated and likely to take longer to resolve the investigating officer can set a reasonable and appropriate revised timescale and keep the customer informed of this and of the progress of the complaint.
- 3.7 There is provision for certain types of issues and complaints to fall outside the complaints policy because there are other processes more suitable for dealing with them or because they are outside of the Council's control. These 'exceptions' are listed below:
- Matters of law or central government policy;
 - Complaints from staff about employment related issues; including appointments, dismissals, pay, pensions and discipline. These are dealt with separately under the Council's HR policies and procedures;
 - Commercial or contractual matters, for example contracts for the supply of goods and services to the Council. Complaints about the negotiation of council leases, or the disposal of Council land may be dealt with through this policy and procedure
 - Complaints where a customer or the Council has started legal proceedings but not where a customer has only threatened legal action
 - Complaints that have already been decided by a court or independent tribunal should not be accepted but complaints about the implementation of a court or tribunal's decision should be investigated.
 - Disagreement with a planning permission, enforcement decision or other consent under planning legislation.
 - Services for which there are alternative statutory, appeal, tribunal or other processes, including appeals against the refusal of planning permission or planning enforcement, a refusal to grant or renew a licence or appeals against statutory notices, parking charges and housing benefit decisions.
- 3.8 There is attached to this report as Appendix 4, details of the complaints which have been considered in accordance with the Council's complaints policy. The report identifies the nature of the complaint and the outcome. Formal complaints which are not settled in the initial stages may be referred to the Human Resources and Appeals Sub-Committee as an appeal.

- 3.9 There has been one appeal to the Human Resources and Appeals Sub-Committee during the year which was upheld and a number of recommendations put forward which are being progressed. These recommendations can be summarised as follows:
1. That consideration should be given to investigating the feasibility of recording telephone conversations between officers and members of the public as a matter of course.
 2. That if a complaint be escalated, complainants should receive copies of all notes from any meetings which they attended.
 3. That an internal review should take place on all address databases (GIS, Electoral Services, Council Tax) to ensure that there is consistency in how the addresses are recorded.
 4. That a review of Eden District Council's unacceptable behaviour policy be undertaken, and that consideration be given to offering staff conflict training.
- 3.10 Four complaints which were considered to fall outside of the Council's complaints policy were referred to the Local Government and Social Care Ombudsman by the complainant and each case was either closed after initial enquiries or not upheld.
- 3.11 The complaints, by service over the last four years and their number were:

	2017-18	2016 - 17	2015 – 16	2014 – 15
Benefits and Tax	2	3	6	1
Corporate and Other Services	0	4	3	2
Environmental Services	1	1	0	2
Housing	0	0	0	0
Planning and Development	10	10	5	12
Other	4	0	0	0
Total	17	18	14	17

- 3.12 A central record is maintained of formal compliments. The formal compliments are those which are made in writing. Sixty-three compliments were recorded during the last financial year. The compliments received by category were:

	2017-18	2016 - 17	2015 – 16	2014 – 15
Customer and Corporate Services	20	14	8	11
Environmental Services	0	3	4	0
Financial Services	0	0	0	1
Governance	37	38	31	33
Technical Services	14	8	0	5

- 3.14 Council Managers seek feedback in a variety of ways. The formal compliments and complaints process is not a complete picture of customer response. Licensing, Environmental and Planning Services sections and the Contact Centre undertake formal satisfaction surveys.

4 Policy Framework

- 4.1 The Council has four corporate priorities which are:

- Decent Homes for All;
- Strong Economy, Rich Environment;
- Thriving Communities; and
- Quality Council

- 4.2 This report meets the Quality Council corporate priority.

5 Consultation

- 5.1 There has been no consultation on the contents of this report.

6 Implications

6.1 Financial and Resources

- 6.1.1 Any decision to reduce or increase resources or alternatively increase income must be made within the context of the Council's stated priorities, as set out in its Council Plan 2015-19 as agreed at Council on 17 September 2015.

- 6.1.2 There are no proposals in this report that would reduce or increase resources.

6.2 Legal

- 6.2.1 The Council is obliged to respond to complaints of maladministration and through the Ombudsman. The Local Government Act 1974, prescribes the way in which the Ombudsman conducts investigations. The provision of an annual report is a statutory requirement.

6.3 Human Resources

- 6.3.1 There are no specific Human Resources implications arising out of the report.

6.4 Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	There are no implications arising out of the report.
Health, Social Environmental and Economic Impact	There are no implications arising out of the report
Crime and Disorder	There are no implications arising out of the report.
Children and Safeguarding	There are no implications arising out of the report.

6.5 Risk Management

Risk	Consequence	Controls Required
That complaints are not properly managed.	Reputational damage to the Council.	<ol style="list-style-type: none">1. Complaints thoroughly and properly investigated.2. Appropriate action taken in the interests of the provision of good quality services to the public.3. A reasoned approach to issues raised which enables the Council to make improvements which are due and thereby minimise any recurrence of the complaint or any adverse finding.

7 Other Options Considered

7.1 Not alternatives are suggested.

8 Reasons for the Decision/Recommendation

8.1 To respond properly to the annual report from the Ombudsman.

Tracking Information

Governance Check	Date Considered
Chief Finance Officer (or Deputy)	17 September 2018
Monitoring Officer (or Deputy)	17 September 2018
Relevant Assistant Director	18 September 2018

Background Papers:

Appendices:	Appendix 1	Local Government and Social Care Ombudsman Annual Review Letter
	Appendix 2	Investigation Upheld
	Appendix 3	Comparison with other Authorities
	Appendix 4	Council's own Formal Complaints Report

Contact Officer: Mr M Neal
Direct Dial 01768 212237

Local Government & Social Care OMBUDSMAN

18 July 2018

By email

Rose Rouse
Chief Executive
Eden District Council

Dear Rose Rouse,

Annual Review letter 2018

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

Complaint statistics

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

Future development of annual review letters

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new corporate strategy for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will therefore be seeking views from councils on the future format of our annual letters early next year.

Supporting local scrutiny

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at www.lgo.org.uk/scrutiny. I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

Learning from complaints to improve services

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the reports and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

Complaint handling training

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit www.lgo.org.uk/training.

Yours sincerely,



Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Local Authority Report: Eden District Council
For the Period Ending: 31/03/2018

For further information on how to interpret our statistics, please visit our website:
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
0	1	1	0	2	0	0	8	0	12

Decisions made

				Detailed Investigations			Total
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	
0	0	2	5	2	1	33%	10
Notes Our uphold rate is calculated in relation to the total number of detailed investigations. The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.				Complaints Remedied			
				by LGO	Satisfactorily by Authority before LGO Involvement		
				0	0		

Appendix 2

6 October 2017

Complaint reference:
17 005 497

Complaint against:
Eden District Council

Local Government
OMBUDSMAN

The Ombudsman's final decision

Summary: Mr A complains the Council delayed unreasonably in reviewing its decision to restrict his communication and access to its services under its Unacceptable Behaviour Policy. There was delay by the Council in carrying out its review but as this delay has not caused significant injustice to Mr A, and it will shortly be reviewing its position again following recent events involving Mr A, there are insufficient grounds to warrant further investigation of the complaint by the Ombudsman.

The complaint

1. Mr A complains the Council delayed unreasonably in reviewing its decision to restrict his communication and access to its services under its Unacceptable Behaviour Policy.

The Ombudsman's role and powers

2. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
3. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
 - it is unlikely we would find fault, or
 - the fault has not caused injustice to the person who complained, or
 - the injustice is not significant enough to justify our involvement, or
 - it is unlikely we could add to any previous investigation by the Council, or
 - it is unlikely further investigation will lead to a different outcome, or
 - we cannot achieve the outcome someone wants, or
 - there is another body better placed to consider this complaint, or
 - it would be reasonable for the person to ask for a council review or appeal.

(*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

4. In considering the complaint I reviewed the information provided by Mr A and the Council. Both Mr A and the Council were given the opportunity to comment on my draft decision.

What I found

5. In October 2015 the Council wrote to Mr A to explain why it had activated its Unacceptable Behaviour Policy against him citing, amongst other reasons, his unreasonably persistent contact and the making of unfounded accusations and excessive demands. The Council set out the means by which contact from him would be accepted which included being given a telephone number on which to leave messages, details of an officer he could contact and an email address where his communication would be considered and to which a response would be made if appropriate.
6. The letter confirmed the access restrictions would apply for six months after which time they would be reviewed on a six month basis. It advised the decision to manage his contact with the Council would be reconsidered if he demonstrated an acceptable approach or if circumstances which had led to the decision changed.
7. The Council reviewed its decision in May 2016 having invited Mr A to comment. It wrote to him in June 2016 to confirm that the continuing high level of contact and the unacceptable nature of some of his contact meant the restrictions would remain in place for a further six months after which time a further review would take place.
8. In March 2017 Mr A complained to the Council that he was being victimised as a result of its decision to restrict his access. The Council responded to his complaint on 4 May 2017 and confirmed it was satisfied the arrangements put in place had been made in accordance with the Council's policy and that the review of the decision had been properly undertaken. However, the Council noted that the six month review period had passed and so confirmed it would be undertaking a further review. It invited Mr A to provide his comments by 17 May 2017.
9. In July 2017 Mr A provided the Council with information about a medical condition he had recently been diagnosed with.
10. In the meantime, as the Council had not completed the review, Mr A complained to the Ombudsman. On 1 August 2017 the Council advised it was currently carrying out the review and that it would be taking the further information Mr A had provided into account.
11. On 6 September 2017 the Council wrote to Mr A to advise that having reviewed his interactions and found a more acceptable approach over the last 8 months it had been minded to remove the restrictions. However, prior to writing to him to inform him of this an incident came to light involving his contact with the Council's Out of Hours Service during August 2017. This led the Council, following discussions with its Legal team, to confirm that until this incident had been fully investigated by the relevant parties the restrictions would continue to apply. It concluded by advising Mr A that once the investigations had been completed it would review the situation again, taking into account the result of the investigations.

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12. In responding to my enquiries the Council has confirmed that the incident which occurred has resulted in a police investigation. The Council has no control over this nor can it give a timescale for its completion. However, it has confirmed that it will review Mr A's contact arrangements under its Unacceptable Behaviour Policy once the police investigation has concluded

Analysis

13. There was delay by the Council in carrying out the six monthly review of its decision to restrict Mr A's contact. The review should have taken place at the beginning of December 2016 but was not started until May 2017 when the Council realised it was outstanding. While this was fault, I do not consider Mr A was caused injustice sufficient to warrant any further investigation of the complaint by the Ombudsman.
14. I note the Council has not yet made a decision on the review but given the police investigation currently taking place, I see no grounds to criticise the Council for waiting for the outcome of it before reviewing Mr A's case again.

Final decision

15. There was delay by the Council in carrying out its review but as this delay has not caused significant injustice to Mr A, and it will shortly be reviewing its position again following recent events involving Mr A, there are insufficient grounds to warrant further investigation of the complaint by the Ombudsman.

Investigator's decision on behalf of the Ombudsman

Local Government and Social Care Ombudsman - Complaints and Enquiries Received (by Category) 2017-2018

Authority	Adult Social Care	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environmental Services, Public Protection and Regulation	Highways and Transport	Housing	Planning and Development	Other	Total
Allerdale BC	0	1	3	0	4	0	1	6	0	15
Barrow BC	0	3	0	1	1	1	0	0	0	6
Carlisle CC	0	1	0	0	0	0	0	6	0	7
Copeland BC	0	0	1	0	4	0	0	1	0	6
Eden DC	0	1	1	0	2	0	0	8	0	12
South Lakeland DC	0	0	1	0	2	1	0	3	0	7
LDNPA	0	0	0	0	0	0	0	4	0	4

The Council's own Complaints Procedure

Reference	Date Received	Department	Regarding	Response Date	Outcome
449	11/01/16	Planning	Siting of a mobile field shelter and related matters	Various	Extensive correspondence with the complainant. Human Resources and Appeals Committee was put on hold by the complainant in agreement with the Council. Referred to the Ombudsman by the complainant. Currently under investigation.
466	24/04/17	Council Tax	Contact with Council Tax Officers. Complainant believed the Council's actions amounted to discrimination.	05/05/17	Investigated as a Stage 1 complaint. No evidence of fault found. No request received to progress the complaint.
467	02/06/17	Building Control	Safe standards of operation within the Department. Inconsistent procedures which are not fit for purpose. The service is unresponsive to feedback.	31/08/17	Investigated as a Stage 1 complaint. Investigating Officer met with the complainant. Full response addressing all the issues and two recommended actions put forward to the Department. No request received to progress the complaint.
468	13/07/17	Leisure	Female only swimming sessions.	03/08/17	Investigated as a Stage 1 complaint. Response given addressing the

Reference	Date Received	Department	Regarding	Response Date	Outcome
					<p>concerns raised and setting out the reasons for the different types of swim sessions available.</p> <p>No request received to progress the complaint.</p>
EX05	12/04/17	Planning	Planting of replacement trees on a neighbouring property.	23/05/17	Falls outside the Council's Complaints Policy. Response sent clarifying the issues raised by the complainant and advising the Council can take no action in relation to these issues.
EX06	13/06/17	Planning	Democratic deficit regarding a planning application.	17/05/05 17/07/07	Falls outside the Council's Complaints Policy. Response sent clarifying the issues raised by the complainant and setting out the Council's position. Complainant provided with contact details for the Local Government and Social Care Ombudsman.
EX07	25/07/17	Planning	Information given to the Planning Committee and determination of a planning application	29/09/17	Falls outside the Council's Complaints Policy. Response sent clarifying the issues raised by the complainant and setting out the Council's position. Complainant provided with contact details for the Local Government and Social Care Ombudsman.

Reference	Date Received	Department	Regarding	Response Date	Outcome
EX13	22/08/17	Planning	Manner in which a planning application has been handled and approval of the application.	21/09/17	Falls outside the Council's Complaints Policy. Response sent clarifying the issues raised by the complainant and setting out the Council's position. Complainant provided with contact details for the Local Government and Social Care Ombudsman.
EX08	18/11/17	Planning	The manner in which a planning application has been processed.	08/12/17	Falls outside the Council's Complaints Policy. Response sent clarifying the issues raised by the complainant and setting out the Council's position. Complainant provided with contact details for the Local Government and Social Care Ombudsman.
469	22/11/17	Elections	Customer service within elections and inconsistent address records within the Council.	Appeal - 04/04/18	Meeting held with the complainant. Investigated as a Stage 1 complaint. Appeal request received. The Panel put forward a number of recommendations which are being progressed.
EX09	24/11/17	Planning	Democratic process relating to the planning committee and consideration of a planning application.	23/01/18	Falls outside the Council's Complaints Policy. Response sent clarifying the issues raised by the complainant and setting out the Council's position. No request received to progress the complaint.

Reference	Date Received	Department	Regarding	Response Date	Outcome
EX11	30/11/17	Planning	Distress caused by the approval of a planning application.	08/12/17	Falls outside the Council's Complaints Policy. Response sent clarifying the issues raised by the complainant and setting out the Council's position. Complainant provided with contact details for the Local Government and Social Care Ombudsman.
EX12	27/11/17	Planning	Decision to grant full approval for a planning application.	08/12/17	Falls outside the Council's Complaints Policy. Response sent clarifying the issues raised by the complainant and setting out the Council's position. Complainant provided with contact details for the Local Government and Social Care Ombudsman.
EX10	04/02/18	ACV	Decision of the Council not to register an Asset of Community Value	12/03/18	Falls outside the Council's Complaints Policy. Complainant advised that there is no scope within the Council's complaints policy to overturn the decision. Complainant provided with contact details for the Local Government and Social Care Ombudsman.
18/00	27/02/18	Council Tax	Administration of Council tax.	09/03/18	Investigated as a Stage 1 complaint. Apologies for delays in responding to the complainants requests for single resident discount. Further information

Reference	Date Received	Department	Regarding	Response Date	Outcome
					requested from the complainant in order to progress application. No request received to progress the complaint.
18/01	25/01/18	Planning	Alleged illegal felling of trees		Ongoing.
18/08	January 2018 to July 2018	Environmental Services	<p>Related to various issues initially considered to be service requests. Complaints continued and escalated and related to collection of refuse at complainant's property, discrimination, being unable to contact staff, staff not responding, attitude of staff and staff putting phone down.</p> <p>Concerns were raised by staff regarding the content of some of the emails from the complainant and behaviour towards staff over the telephone and in person.</p>	Various	<p>Comprehensive response sent addressing all issues under Stage 1 of the complaints procedure.</p> <p>Complainant was asked to modify behaviour.</p> <p>Request to proceed to Stage 2 received. In accordance with the Complaints procedure the complainant was asked to clarify why they were dissatisfied with the Stage 1 response. The complainant refused to do so.</p> <p>The Complainant was notified that the Council will not progress the complaint further.</p> <p>The Council is reviewing contact by the complainant under its Unacceptable Behaviour Policy.</p> <p>Referred to the Ombudsman by the complainant.</p>

