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NON-EXEMPT

# HAVANT BOROUGH COUNCIL

AUDIT AND FINANCE COMMITTEE

20 OCTOBER 2022

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## REPORT OF MONITORING OFFICER – ANNUAL REVIEW LETTER OF LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN

### FOR NOTING

Portfolio Holder: Cllr Tony Denton

Key Decision: No

Report Number: HBC/084/2022

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### 1. Purpose

The purpose of this paper is to report to Audit and Finance Committee the annual summary of complaint statistics provided by the Local Government & Social Care Ombudsman (LGSO) and the action taken in respect thereof. This data is provided in the form of their Annual Review Letter and this is attached to this report.

### 2. Recommendation

Members are recommended to: -

- (i) Receive the Annual Review Letter 2022 from the Local Government & Social Care Ombudsman and accompanying complaints data; and
- (ii) Note that in the year 1 April 2021 to 31 March 2022 there were 21 complaints cases decided by the Ombudsman, two of which were upheld and fault found; and
- (iii) Note that the Council was fully compliant with the outcomes and remedies recommended by the Ombudsman in the two upheld complaints.

### 3. Executive Summary

3.1. The Council maintains an effective internal complaints process where residents who are dissatisfied with a particular service can expect a full assessment of their complaint and, hopefully, a satisfactory resolution. Any resident who exhausts this process can choose to complain to the Local Government & Social Care Ombudsman. The Ombudsman provides a free service for complainants and aims to investigate complaints in a fair and independent way. Every year the Ombudsman provides each local authority with a summary of the complaints made against it and how its performance statistics compare with similar authorities. A theme of this year's letter to all authorities is the Ombudsman's cautionary note that the post-pandemic complaints processes of local authorities should be better resourced. Properly resourced complaints processes can provide valuable insight about an organisation's performance.

3.2. The headline figures for 2021-22 show that there were 19 complaints received by the Ombudsman alleging some fault by the Council. There were 21 decided cases during the same period (invariably there will be some overlap between years which is why complaints received and decided seldom coincide). The vast majority of complaints received by the Ombudsman do not proceed to investigation, either because they are without merit or because the Council has not been afforded the opportunity to address them (categorised by the Ombudsman as 'premature').

3.3. During 2021-22 the Ombudsman conducted 4 full investigations. Two of the four complaints were upheld which is the sector average. The 2 upheld cases are summarised below with a note of the action taken in compliance with recommended remedies.

#### **4. Complaints Upheld – case summaries**

4.1. Case No. 19017819

- a. A resident complained that the Council wrongly sent him a summons for council tax arrears which related to someone else with the same name, and then failed to respond to his complaint about this matter. The complainant alleged that he was caused unnecessary stress, being worried that bailiffs might call at his property and that his credit rating would be affected.
  
- b. The Council acknowledged its error in sending the complainant a council tax bill and summons which were intended for a person with the same name as him. The Council also accepted that it had used an incorrect email address when responding to the complaint which caused delay. However, the Ombudsman considered that the Council had taken appropriate steps to remedy what went wrong. The Council had corrected its billing and email address errors, apologised to the Complainant and offered him £100 in compensation. The Council has also committed to reviewing its processes for finding forwarding addresses of council taxpayers who had moved.

4.2. Case No. 20008921

- a. A resident complained the Council gave factually incorrect information about the requirements of the building regulations. The Complainant alleged that the incorrect information meant that unnecessary works were undertaken at her property, resulting in extra costs of over £9,000 and causing much distress for her and her husband. The complainant and her husband had received planning permission to build an extension to their home. A building control surveyor inspected the work during the course of foundations being laid. The surveyor told the complainant's husband (a builder) that the foundations should be 1.5 metres deep because if a neighbour removed a tree it could cause heave in the soil and damage the foundations. The surveyor said that Claymaster should be used in the foundations. In the course of the investigation the Council accepted that the evidence suggested that there was

probably no need for Claymaster but that there had been no analysis or investigation of the soil and the judgements were all subjective.

- b. The Ombudsman found that the surveyor was not merely giving the builder advice. He was issuing him with an instruction. He did not say that the builder was free to continue at his own risk. The Council's requirement that Claymaster should be installed, despite not knowing precise ground conditions or whether a neighbouring tree would be removed, amounted to fault. The Ombudsman did not find that the Council was liable for the extra work that needed to be carried out but it did need to be more careful, and clearer, about the steps applicants may take where precise ground conditions are unknown.
- c. The Council agreed to comply with the Ombudsman's recommendations by: -
- Apologising for the instruction to use Claymaster and not making options clear
  - Paying £300 compensation in recognition of the distress and uncertainty its fault caused
  - Reminding building control officers of the importance of providing clear advice and evidence-based instructions to applicants

## **5. Additional Budgetary Implications**

- 5.1. None directly from this report.

## **6. Background and relationship to Corporate Strategy, Climate & Environment Strategy and/or Business Plans**

- 6.1. The Corporate Strategy 2022-25 manages progress through the use of four dimensions or perspectives, the first of which is the customer and communities' perspective. The independent review of customer complaints provided by the Ombudsman contributes usefully to the "scorecard" by which the Council monitors customer experience of its services.

## **7. Options considered**

7.1. Not applicable.

## **8. Resource Implications**

8.1. Financial Implications

8.2. The complaints process and Ombudsman liaison are managed through existing budgeted resources.

### **Section 151 Officer comments**

Date: 11/10/22

There are no direct financial implications arising from this report. Complaints and Ombudsman liaison are managed through existing budgets.

8.3. Human Resources Implications

8.4. None directly from this report.

8.5. Information Governance Implications

8.6. None directly from this report.

8.7. Other resource implications

8.8. None directly from this report

## **9. Legal Implications**

9.1. The Local Government Act 1974 established the then Local Government Ombudsman for England and for Wales.

9.2. The Act defines the Ombudsman's main statutory functions:

- to investigate complaints against councils and some other authorities
- to investigate complaints about adult social care providers from people who arrange or fund their own adult social care

- to provide advice and guidance on good administrative practice

## **10. Risks**

- 10.1. The reputational damage that can be caused by adverse Ombudsman findings is

### **Monitoring Officer comments**

Date: 11/10/22

This report is made pursuant to the obligation placed on the Monitoring Officer to report to Councillors on any actual or potential breaches of the law or maladministration as required by section 5 Local Government Housing Act 1989 (Constitution Part 2 Section G3 paragraph 3.10). A specific function of the Audit and Finance Committee is to consider all findings of the Local Government and Social Care Ombudsman, including reports resulting in a finding of maladministration against the Council (Constitution Part 2 Section E3 paragraph 7.2)

mitigated by the careful management of an internal complaints process. The Council will always respond appropriately to independent assessment of complaints and the normal expectation is that Ombudsman recommendations will be fully implemented.

## **11. Climate & Environment Implications**

- 11.1. None directly from this report.

## **12. Consultation**

- 12.1. The Ombudsman findings have been shared internally and the Council's performance was uploaded to the Ombudsman's interactive map on 27 July 2022.

## **13. Communication**

- 13.1. None directly from this report.

## **14. Appendices**

- 14.1. Appendix 1 – Local Government & Social Care Ombudsman Annual Review Letter 2021-22 with performance statistics.

## **15. Background papers**

- 15.1. Case files containing exempt and personal information.

Agreed and signed off by:

Monitoring Officer: Mark Watkins      Date:      11/10/22

Section 151 Officer: Malcolm Coe      Date:      11/10/22

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