

Meeting: Audit Committee
Date: 25 October 2023
Classification: Part 1
Key Decision: No
Title of Report: Annual Report – Comments, Complaints and Compliments
– 2022/23

Executive Director: Claire Shuter, Executive Director Strategy and Change
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Governance, Complaints and Resolution
Executive Councillor: Councillor Moyies: Cabinet Member for Public Health,
Adult Social Care & Constitutional Affairs

1. Executive Summary

1.1. This report is to:

- Provide performance information about general comments, complaints and compliments received across the Council for 2022/23.
- Provide an annual report concerning compliments, concerns and complaints received about the Council's Children and Adults' social care functions.
- Report to councillors on the findings of certain Local Government and Social Care Ombudsman investigations.
- Provide assurance that the above complaints systems are effective.

2. Recommendations

2.1 It is recommended that the Committee:

- a. Note that the Council has the necessary structures in place to manage complaints received through the General and Children's and Adult Social Care statutory complaint processes.
- b. Note that the Council has the necessary structures in place to manage comments, compliments and concerns received.
- c. Note the contents of the annual letter of the Local Government and Social Care Ombudsman.
- d. Note the summary of complaints upheld by the Ombudsman.
- e. Note compliance with timescales in all types and stages of complaints requires improvement and to further note the Governance Board will be asked to drive improvement across the organisation.

- f. Note the timeliness of remedial actions agreed with the Ombudsman requires improvement and to further note the Governance Board will be asked to drive improvement across the organisation.
- g. Note the Local Government and Social Care Ombudsman and Housing Ombudsman are jointly consulting on a proposed Complaint Handling Code which if adopted will require amendment to the Council's current general complaints process.

3. Background

3.1 This report provides assurance in relation to four separate but associated processes:

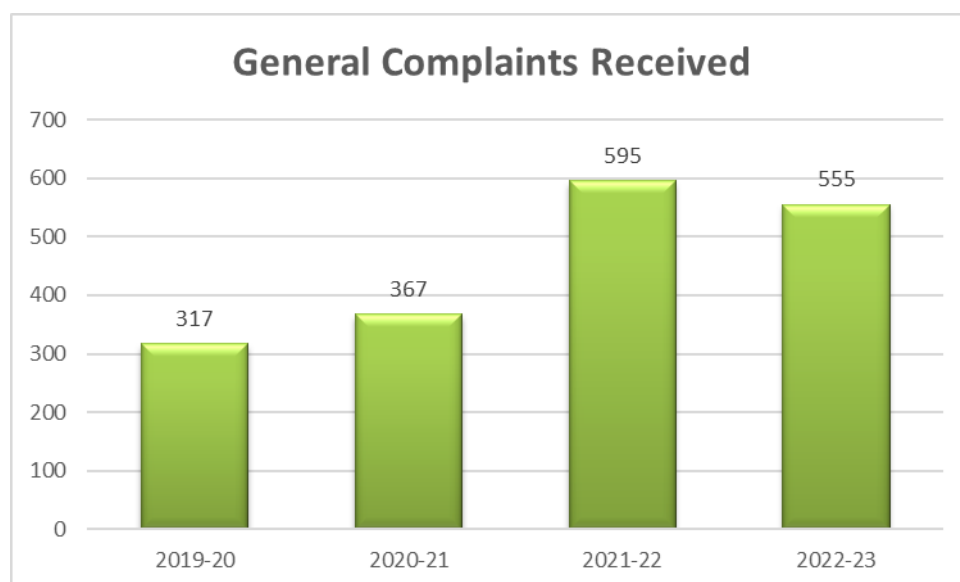
- General Comments, Complaints and Compliments
- Children's Statutory Complaints
- Adult Statutory Complaints
- Local Government and Social Care Ombudsman (LGSCO) complaints

4. General Complaints Process

4.1 Complaints which do not have a specialist process are considered under the General Comments, Complaints and Compliments procedures (sometimes referred to as corporate complaints). There are three stages to the process.

4.2 555 complaints were received through the General complaint process in 2022/23. The increase in complaints experienced at the end of the pandemic has reduced but has not yet returned to previous levels.

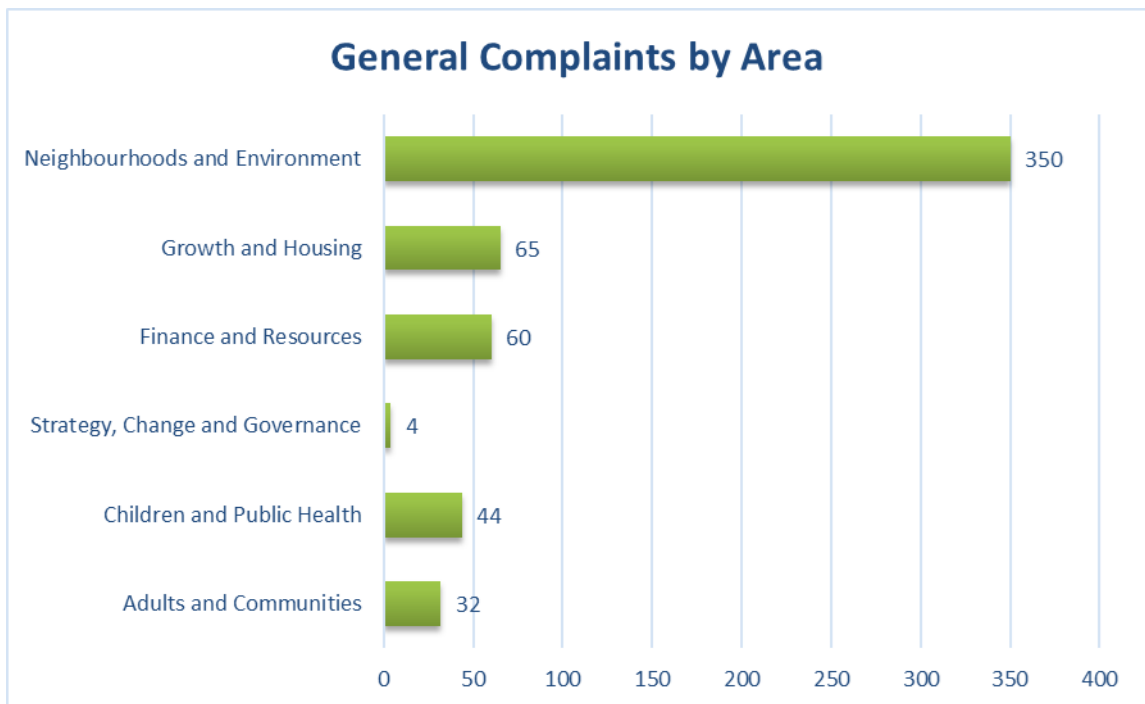
This Graph shows the number of complaints received and a comparison with the previous three years.



4.3 487 complaints were resolved in 2022/23. Of these 63% were responded to in time. Throughout the year services have reported that they have found it difficult to prioritise the handling of complaints against the other demands on

their time. The Ombudsman is proposing to introduce a statutory Code which is expected to impose a shorter timescale for complaints than the Council's current process allows. The Ombudsman will find the Local Authority at fault where these are not met. This issue will need to be addressed and a solution found, directed by the Governance Board, before the new Code comes into force (expected April 2024).

- 4.4 Of the complaints resolved, 11% were fully or partially upheld.
- 4.5 Of the complaints received and responded to in 2022-23 through the General complaint process, 89% were resolved at stage 1, 9% at stage 2 and 2% at stage 3.
- 4.6 The complaints received through the General complaint process in 2022-23 related to the following service areas, reflective of the organisational structure at that time:



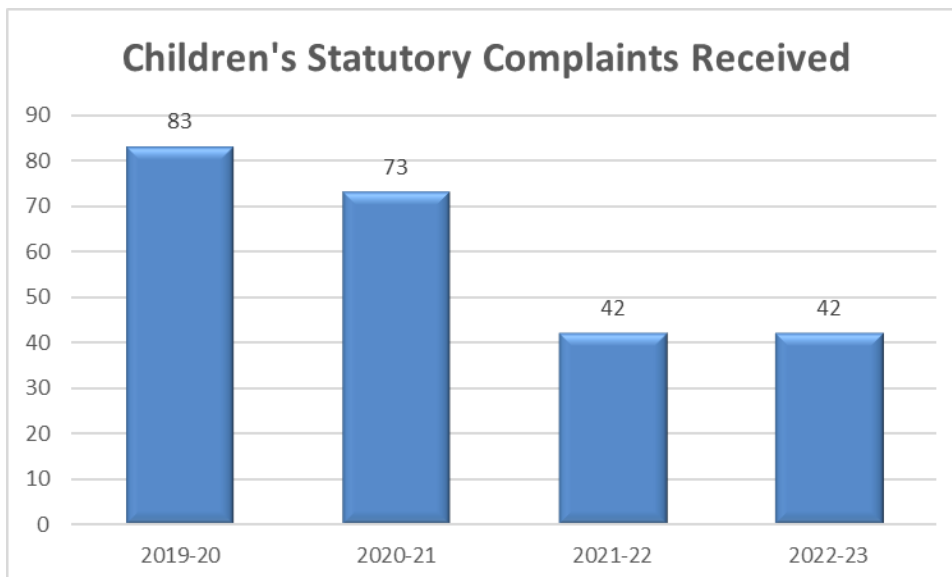
- 4.7 The top three issues raised were:
 - Poor level of service and/or procedure not followed.
 - Staff being rude or unhelpful.
 - Council policy, procedure or the law being wrongly interpreted.

5. Children's Statutory Social Care Complaints Process

- 5.1 The Children's Act 1989 provides the statutory basis for a three stage complaint process. Not all complaints about children's services fall under the Act, where this applies the General complaints process will be followed.

5.2 42 complaints were received through the Children's Social Care complaint process in 2022/23. The number of complaints received has remained stable.

This Graph shows the number of complaints received and a comparison with the previous three years.



5.3 36 complaints were resolved through stage 1 of the process in 2022/23. Of these 31% were responded to in time (10 working days). 67% were responded to within 20 working days. Throughout the year services have reported that they have found it difficult to prioritise the handling of complaints against the other demands on their time. There was a challenge in recruiting new panel members in 2022-23 when some long-standing members chose to step down after the pandemic. New members have now been found and this will make it easier to convene panels in time when required.

5.4 Of the complaints resolved, 40% were fully or partially upheld.

5.5 In the Children's social care process, 17% of the complaints made in 2022-23 have escalated to stage 2 and two cases to Stage 3.

5.6 The 42 complaints received through the Children's social care complaint process in 2022-23 were made up of 61 issues.

5.7 The top three issues raised were:

- Insufficient support being provided.
- Lack of professionalism.
- Failure to take account of service user or family views.

5.8 A theme running through Children's services complaints is complainants feeling staff can at times be unprofessional and slow at decision making, not always following our own processes and procedures properly. People may not feel listened to or that their views and concerns are taken seriously.

5.9 Of the complaints made, one was directly from a child (defined as those under 18 years of age) and 4 from care-leavers in the 18 to 24 age range. Those young people who were not assisted by an advocate, were offered support to access an advocacy service.

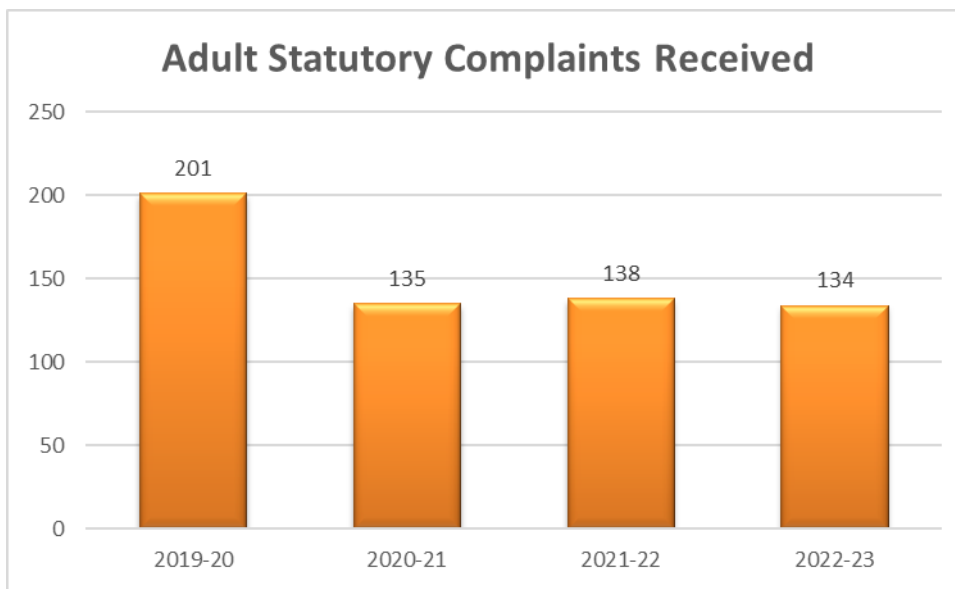
6. Adult Statutory Social Care Complaints Process

6.1 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 provides the statutory basis for a single stage complaint process. Not all complaints about adult social services fall under the Act, where this applies the General complaints process will be followed.

6.2 Complaints concerning external providers of Adult social care (such as residential care homes or care provided at home) which are raised directly with them are not recorded by the Council.

6.3 134 complaints were received through the Adult Social Care complaint process in 2022/23. The number of complaints has been stable for the past three years and represents 5.5% of the adults who were provided a service in 2022-23.

This Graph shows the number of complaints received and a comparison with the previous three years.



6.4 133 complaints were resolved through the process in 2022/23. Of these 46% were responded to in time. Throughout the year services have reported that they have found it difficult to prioritise the handling of complaints against the other demands on their time. Some complaints are delayed waiting for ongoing social work actions to be resolved so that a full response can be provided. Where complaints relate to external providers there can be considerable delay in receiving their contribution to the investigation.

6.5 Of the complaints resolved:

- 55% of complaints regarding Council services were fully or partially upheld.
- 50% of complaints regarding services provided by Domiciliary Care providers were fully or partially upheld.
- 100 % of complaints regarding services provided by Residential Care providers were upheld (1 complaint).

6.6 There were 82 complaints regarding Council services.

6.7 The top three issues raised were:

- Care charges not properly explained.
- Insufficient level of support being provided.
- Financial loss.

6.8 There were 50 complaints regarding Domiciliary Care services.

6.9 The top three issues raised were:

- The quality of service provided.
- Late calls being made.
- The timing of calls/timing issues

6.10 There was one complaint regarding Residential Care provider services which concerned staff attitude.

7. Compliments, Concerns and Comments

7.1 Compliments. In 2022-23, 223 compliments were received (73 through the general process, 26 through the Adult and 124 the Children's social care process (the latter being for the second half of the year only following a drive to ensure compliments were recorded).

7.2 Regulations require the local authority to record Adult social care 'concerns'. No concerns were received in the reporting period.

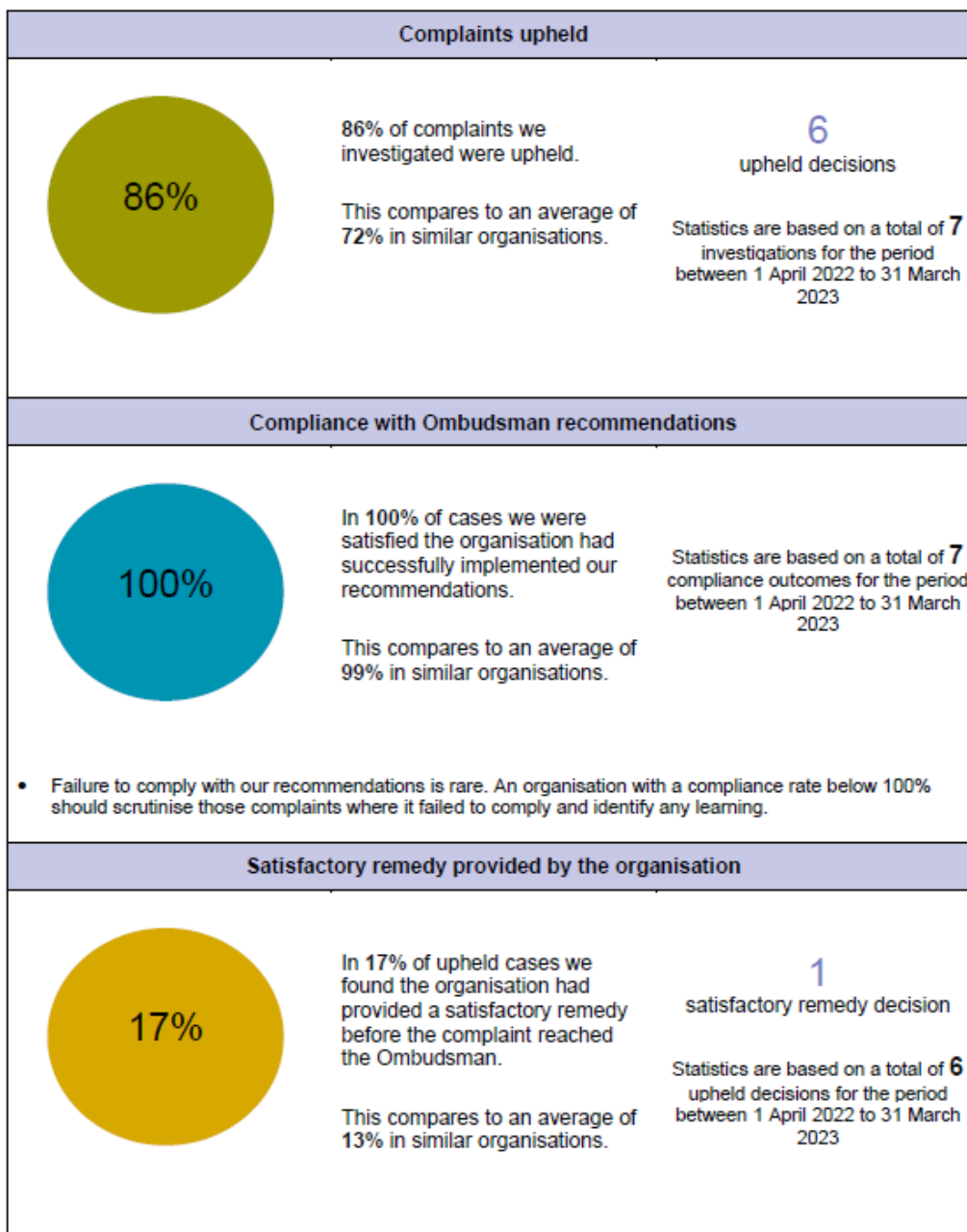
7.3 Some people wish to provide feedback to help improve services, but they do not wish to make a formal complaint, and the Council's Comments process facilitates that.

8. Monitoring and reporting

8.1 Performance on complaints is shared with Service Managers and formally reported upon quarterly. Additional reporting at a more granular level is being introduced to improve performance. Complaints are monitored by the Complaints Manager for any trends/emerging themes.

9. Local Government and Social Care Ombudsman

- 9.1 This section constitutes the report of the Monitoring Officer concerning complaints to the Local Government and Social Care Ombudsman throughout the year and fulfils the Monitoring Officer's reporting duty under section 5(2) of the Local Government and Housing Act 1989 and the Local Government Act 1974.
- 9.2 The Monitoring Officer must provide councillors with a summary of the findings on all complaints relating to the Council where in 2022/23 the Local Government and Social Care Ombudsman (LGSCO) has investigated and upheld a complaint.
- 9.3 The LGSCO investigates complaints about 'maladministration' and 'service failure', generally referred to as 'fault'. They consider whether any fault has had an adverse impact on the person making the complaint, referred to as an 'injustice'. Where there has been a fault which has caused an injustice, the LGSCO may suggest a remedy.
- 9.4 The Council works with the LGSCO to resolve complaints made to the Ombudsman. Most complaints are resolved without detailed investigation.
- 9.5 The Ombudsman writes a letter to the Council each year providing commentary and statistics concerning the matters raised with them over the previous year. The statistics are focused on three key areas:
Complaints upheld – The LGSCO uphold complaints when they find some form of fault in an authority's actions, including where the authority accepted fault before they investigated.
- Compliance with recommendations – The Ombudsman recommends ways for authorities to put things right when faults have caused injustice and monitor their compliance with the recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.
 - Satisfactory remedy provided by the authority - In these cases, the authority upheld the complaint and the Ombudsman agreed with how it offered to put things right.
- 9.6 In their letter, the Ombudsman has expressed concern that in three instances in the reporting period, agreed recommendations were not complied within the agreed timescales. They say such delay undermines confidence in the Council and the complaints process itself. The Ombudsman invites the Council to consider how it might improve performance in 2023/24.
- 9.7 Statistics from the annual review letter of the LGSCO are as follows (full details and the Ombudsman's annual letter are available on the [LGSCO website](#)).



9.8 In 2022/23, 44 approaches were made to the LGSCO in respect of Southend-on-Sea City Council.

9.9 46 decisions were made by the LGSCO, as follows:

Advice given	1
Closed after initial enquiries	10
Incomplete/invalid complaint	5
Referred back for local resolution	23
Not upheld	1
Upheld	6
Number of decisions made	46

9.10 The Ombudsman concluded 7 detailed investigations in respect of Southend-on-Sea City Council in the period between 1 April 2022 and 31 March 2023 with 6 complaints being upheld. Although the percentage rate upheld appears high, the number of complaints requiring investigation by the Ombudsman is comparable with previous years.

Year	20/21	21/22	22/23
Number of detailed investigations	11	8	7
Number of detailed investigations upheld	5	7	6
Upheld rate	45%	88%	86%

9.11 The following is a summary of the 6 upheld complaints:

9.11.1 Benefits and Tax:

A complaint was made to the Ombudsman that the Council had refused to backdate an award of discretionary housing payment. The person complaining said this had caused them financial difficulty. Before the Ombudsman made their decision, the Council had decided to pay the backdated monies. The Ombudsman therefore decided not to investigate further. The complaint was upheld.

9.11.2 Corporate and Other Services:

A complaint was made to the Ombudsman that the Council had not properly dealt with his complaints about the condition of a pathway. The Ombudsman found that this had caused an injustice to the person who complained because the problems with the pathway meant that people were unable to access the tennis courts the complainant ran a business from. In addition, the complainant had spent time and trouble pursuing the complaint. The Council agreed to apologise and make a payment for the distress caused. The Council also agreed to consider what went wrong in the handling of this case and to investigate some more recent concerns raised about the pathway. These actions were completed but not within the agreed timescale.

9.11.3 Education and Childrens Services:

A complaint was made about how the Council had dealt with social work assessments for their son, and how it had then dealt with her complaints about the matter. The person making the complaint said she and her son had not received the support they needed, and she had incurred costs in providing a report I support of their needs. The Ombudsman found that the Council had carried out the latest social work assessment properly. There was however some fault in earlier assessments, but this was unlikely to have affected the outcome. The Ombudsman recommended that the Council remind relevant staff across all social work teams of the need to consider and record whether the child involved in an assessment is a disabled child. This action was completed within the agreed timescale.

A complaint was made about delays in reviewing an Education Health and Care plan for their daughter, and how the Council investigated their complaints about the matter. The Ombudsman found that the Council properly investigated the complaints. However, it did not properly apologise or recognise the impact on the family of the failures it had identified during the complaint process. The Council agreed to apologise fully and pay the complainants an improved financial remedy. The Council also agreed to review how it managed complaints under the children's statutory complaints process. The Ombudsman was satisfied that although not all agreed actions were completed, the Council had taken reasonable steps to do so.

9.11.4 Highways and Transport:

A complaint was made about how the Council dealt with parking issues near the complainant's home. The Ombudsman found the Council to be at fault because there had been delay and poor communication and complaint handling. The Council agreed to apologise and make a remedial payment. The Council also agreed to review the parking situation without delay and

make service improvements. The remedial actions were completed but not within the agreed timescale.

9.11.5 Housing:

A complaint was made about how the Council had dealt with concerns raised by a tenant about his privately rented property. The Ombudsman found the Council at fault for delay in investigating the concerns raised and complaints about the delay. The Council agreed to apologise and make a remedial payment. The Council also agreed to look at what measures it could put in place to reduce the backlog of requests to its private sector housing team. The remedial actions were completed.

9.12 The third 'late remedy' referred to above by the Ombudsman was for an Education and Childrens Services complaint included in the 2021/22 report.

10. Conclusion

10.1 The processes continue to deliver a professional response to individual complaints and robust complaint monitoring. However, compliance with timescales in all types and stages of complaints requires improvement.

10.2 The Council is co-operating fully with the LGSCO and successfully collaborating with them to identify the appropriate resolution for complaints made. However, agreed remedies are not always implemented in time and this requires improvement.

- 10.3 The Local Government and Social Care Ombudsman and Housing Ombudsman are jointly consulting on a proposed Complaint Handling Code which would apply to those overseen by either body. It is the Ombudsman's strong belief that there should be a single model of complaint handling for councils which makes it easier for local people to hold their local authority or social landlord to account. However the Code will not apply to those complaints considered under the adult and children's statutory process as these are prescribed in law.
- 10.4 If the Code remains as is now proposed, our General Complaint process will need to be adapted, in particular the third stage will no longer be permitted, and the two permitted stages will have prescribed response targets which are shorter than those we currently apply. The full potential implications will be identified as the Council's response to the consultation is formulated. The consultation ends on 23 November 2023 with anticipated adoption of the Code in April 2024.

11. Reasons for Decisions

- 11.1 To ensure the Council continues to have transparent and effective complaint procedures.

12. Other Options

- 12.1 None. Reporting of general complaint performance is required by the Local Government and Social Care Ombudsman as demonstration of good practice. Reporting concerning social care complaints and Ombudsman decisions is required by law.

13. Financial Implications

- 13.1 A robust complaint process with thorough investigation and a positive approach reduces the likelihood of financial remedies being recommended by the LGSCO. Whether there are financial implications of the Ombudsman's proposed Complaint Handling Code is not yet known.

14. Legal Implications

- 14.1 These reports ensure compliance with legislation requires that statutory processes be in place to deal with complaints relating to child and adult social care and to produce annual reports concerning them. These reports also need to be shared with the Care Quality Commission and the Department of Health.
- 14.2 The report of the Monitoring Officer ensures section 5/5A of the Local Government and Housing Act 1989 (which requires the Monitoring Officer is required to prepare a formal report on all upheld Ombudsman complaint decisions) is met.

14.3 The Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004 confer a duty on local authorities to provide information about advocacy services and offer help to obtain an advocate to a child or young person wishing to make a complaint. This requirement is met by the process.

15. Policy Context

15.1 None

16. Carbon Impact

16.1 None

17. Equalities

17.1 The complaints processes are open to all and have multiple methods of access for customers. Adjustments to the processes are made for those who require it because of a protected characteristic.

17.2 Although most commonly the processes are accessed through e-mail and on-line forms, traditional methods such as post are available and where necessary a complaint can be transcribed over the telephone or be made in person.

17.3 This supports those who might otherwise be inhibited from using the process, perhaps through vulnerability.

18. Consultation

18.1 None recently.

19. Appendices

19.1 None