

ABERDEEN CITY COUNCIL

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| COMMITTEE | Audit Risk and Scrutiny |
| DATE | 4 December 2018 |
| REPORT TITLE | Scottish Public Services Ombudsman Decisions and Inspector of Crematoria Complaint Decisions |
| REPORT NUMBER | CUS/18/297 |
| DIRECTOR | Andy MacDonald |
| REPORT AUTHOR | Lucy McKenzie |
| TERMS OF REFERENCE | 6.9 |

1. PURPOSE OF REPORT

- 1.1 This report provides information on all Scottish Public Services Ombudsman (SPSO) and Inspector of Crematoria decisions made in relation to Aberdeen City Council since the last reporting cycle, together with details of the SPSO Local Authority 2016-17 annual statistics tables, to provide assurance to Committee that complaints and Scottish Welfare Fund applications are being handled appropriately.

2. RECOMMENDATION(S)

- 2.1 It is recommended that Committee notes the details of the report.

3. BACKGROUND

- 3.1 A report detailing all Scottish Public Services Ombudsman (SPSO) and/or Inspector of Crematoria decisions relating to Aberdeen City Council is submitted to Audit Risk and Scrutiny Committee each reporting cycle. This is to provide assurance that complaints and Scottish Welfare Fund decisions are being handled appropriately. The last report on this matter was submitted to the 25 September 2018 Committee.

Scottish Public Services Ombudsman (SPSO) Complaint Decisions

- 3.2 The Scottish Complaints Handling Procedure (CHP) followed by Aberdeen City Council is outlined by the SPSO. Details of the CHP can be accessed at www.aberdeencity.gov.uk/complaints
- 3.3 There are three SPSO decision relating to Aberdeen City Council complaints to notify the Committee of. One complaint was upheld, and two complaints were not upheld. The SPSO did not make any recommendations. Please refer to Appendix A for further information.

- 3.4 The SPSO have recently presented their 2017-18 annual complaint statistic tables, which are detailed in Appendix B to this report. The information demonstrates how many complaints the SPSO received about Aberdeen City Council. It should be noted that the statistical information contained in the tables do not necessarily match the information held by the council as complainants may contact the SPSO without the council's knowledge or before having gone through the council's complaint process.
- 3.5 Table 1 shows complaints received by main subject area, both about Aberdeen City Council and overall in the sector for the past two financial years. Table 2 shows the outcomes of 'determined' complaints for the same period. Determined complaints are those that the SPSO have looked at and for which they have closed their file. The SPSO will have given the complainant a decision by letter or public report or will have explained why they didn't investigate their complaint. The SPSO does not normally investigate 'premature' complaints where the complainant has not completed the Aberdeen City Council complaints process in the first instance.
- 3.6 As demonstrated in Table 1, there has been an overall rise in the number of complainants approaching the SPSO regarding Aberdeen City Council. This may be explained by the change to the Social Work Complaints Handling Procedure which took effect from 1 April 2017, as the SPSO were not previously responsible for handling all social work complaint reviews. There has also been a higher volume of Aberdeen City Council complaints recorded as 'subject unknown or out of jurisdiction' which means that the SPSO did not progress the matter past their initial enquiry stage. The number of Aberdeen City Council complaints received by the SPSO as a percentage of the Sector totals were 5.9% in 2017-18 compared to 4% in 2016-17. For context, the population of Aberdeen City is 4.2% of the Scottish total.
- 3.7 The issues were similar to previous years with Housing and Social Work at the top of the list. The data in Table 2 demonstrates an increase in the number of occasions the SPSO have felt it appropriate to investigate Aberdeen City Council complaints (8 complaints in 2017-18 compared to 4 complaints in 2016-17). However, of those that were investigated by the SPSO, the percentage of complaints upheld/partially upheld reduced in 2017-18 (37.5% compared to 50%) which is less than the sector total. Action to further improve complaint handling across the council will continue throughout 2018-19.

Scottish Public Services Ombudsman (SPSO) Scottish Welfare Fund Review Decisions

- 3.8 The Scottish Welfare Fund is delivered by Local Councils across Scotland and offers two types of grants – Crisis Grants and Community Care Grants. Further information is available at <https://www.aberdeencity.gov.uk/services/benefits-and-advice/apply-scottish-welfare-fund>
- 3.9 Since the last reporting period, the SPSO has carried out one Second Tier Reviews in relation to Aberdeen City Council Scottish Welfare Fund application decisions. On this occasion, the SPSO changed the Council's original decision and provided some feedback on the handling of the crisis grant application.
- 3.10 The 2017-18 annual SPSO Second Tier Review statistic tables are detailed in Appendix C to this report. As background, there were 13,185 claims in total handled by Aberdeen City Council in 2017/18. The SPSO received 4 review requests from Aberdeen City Council applicants (2 Crisis Grants and 2 Community Care Grant). The overall upheld rate (cases where the SPSO change the council's decision are recorded as upheld) was 0% for Crisis Grant reviews and 0% for Community Care Grants reviews. The national average was 35% for Crisis Grants reviews and 52% for Community Care Grant reviews.

Inspector of Crematoria Decisions

- 3.11 The Inspector of Crematoria responds to complaints or queries from the public about cremations. There have been no decisions by the Inspector of Crematoria in relation to Aberdeen City Council cremations to date.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report.

6. MANAGEMENT OF RISK

| | Risk | Low (L), Medium (M), High (H) | Mitigation |
|------------------|--|-------------------------------|--|
| Financial | Each time a complaint escalates it is more costly to the council than the previous stage due to the effort involved, therefore financially it is in the council's best interest to resolve complaints early in the process. There is also a risk that the council may be required to undertake additional actions as a result of an SPSO decision, including financial compensation. | L | The complaint handling procedure encourages resolution at first point of contact whenever possible. The financial benefits of early resolution is highlighted to responding officers in training. |
| Legal | There are no legal risks associated with this report. | N/A | Not applicable |
| Employee | Staff morale may be lowered as a result of a negative outcome of a SPSO decision. | L | Whilst it is not pleasant to receive a complaint, officers are encouraged to view complaints in a positive light, as a learning point going forwards. |
| Customer | There is a risk to the council's relationship with customers if a complaint or a Scottish Welfare Fund application is not handled correctly. | L | Support in complaint handling is available to responding officers through a variety of methods. In addition, all Stage 2 responses are also quality assured to ensure that responses are appropriate. Officers responsible for Scottish Welfare Fund applications receive comprehensive training to ensure they have the necessary knowledge to undertake assessments. |

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|---------------------|--|-----|---|
| Environment | There are no environmental risks associated with this report | N/A | Not applicable |
| Technology | There are no technological risks associated with this report. | N/A | Not applicable |
| Reputational | Compliance with the Complaints Handling Procedure is audited by Audit Scotland. Non-compliance carries reputational risk. Customer perception of the council could also be negatively impacted if complaints and Scottish Welfare Fund applications are not handled correctly. | L | There is a centralised Customer Feedback Team responsible for ensuring that complaints are being handled consistently and appropriately across the council. |

7. OUTCOMES

| Local Outcome Improvement Plan Themes | |
|--|---|
| | Impact of Report |
| Prosperous People | The report provides assurances that people are supported appropriately when and if necessary. |

| Design Principles of Target Operating Model | |
|--|--|
| | Impact of Report |
| Customer Service Design | The report supports a focus on the delivery of customer centric services through the scrutiny of service delivery to customers. The organisation should look to solve the core issue which led to the complaint and learn from the outcome so to reduce the potential for more / similar complaints. This leads to an improvement in customer service delivery and a reduction in time spent on handling and investigating repeat complaints, which can be a lengthy process for those involved. |
| Organisational Design | The report focuses on complaints outcomes which provide rich customer insight for the organisation to act upon to help transform service delivery. |
| Governance | The report ensures transparency around complaint |

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|-----------------------|---|
| | and Scottish Welfare Fund application handling and provides assurances that informed decisions are being made. |
| Workforce | The outcomes of SPSO decisions are fed back to the relevant staff. This includes both upheld and not upheld decisions to engage staff and ensure they are fully informed of outcomes. The information is also used to inform changes in working practices and training provision for staff to improve their experience as well as that of the customer. |
| Process Design | Processes may be redesigned as a result of lessons learnt from a complaint or an SPSO decision to better meet the needs of customers. |
| Technology | Complaints data can help to inform decisions around the use of technology as it provides insight into the customer experience of accessing services digitally. |

8. IMPACT ASSESSMENTS

| Assessment | Outcome |
|--|-----------------|
| Equality & Human Rights Impact Assessment | Not required |
| Privacy Impact Assessment | Not required |
| Duty of Due Regard / Fairer Scotland Duty | Not applicable. |

9. BACKGROUND PAPERS

N/A

10. APPENDICES (if applicable)

Appendix A - Complaint Details and Subsequent SPSO Recommendations

Appendix B - SPSO Annual Complaints Statistics 2017-18 compared to 2016-17

Appendix C - Scottish Welfare Fund SPSO Review Decisions

Appendix D – SPSO Scottish Welfare Fund Annual Statistics 2017-18 compared to 2016-17

11. REPORT AUTHOR CONTACT DETAILS

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Appendix A - Complaint Details and Subsequent Recommendations

| Complaint Received Date | SPSO Decision Date | Complaints Investigated by the SPSO | Directorate | SPSO Decision | SPSO Recommendations | Date Recommendations Implemented |
|-------------------------|--------------------|---|--|----------------------|----------------------|----------------------------------|
| 4 May 2017 | 29 August 2018 | <ol style="list-style-type: none"> 1) The council unreasonably failed to ensure that an accurate description of the site in respect of landscaping was submitted for assessment (not upheld) 2) The council unreasonably failed to consider the Landscape policy when assessing the application (not upheld) 3) The council unreasonably failed to require additional public consultation once the council established that the Leylandii had been felled (not upheld) 4) The council unreasonably failed to ensure that the applicant adhered to the planning conditions imposed on the consent (not upheld) | Communities Housing and Infrastructure | Complaint Not Upheld | Not applicable | Not applicable |
| 31 October 2017 | 11 September 2018 | <ol style="list-style-type: none"> 1) The head teacher unreasonably failed to follow relevant procedures after an incident at the school (upheld) 2) The council's handling of complaints about his matter was unreasonable (upheld) | Education and Children's Services | Complaint Upheld | Not applicable | Not applicable |
| 15 September 2017 | 17 October 2018 | <ol style="list-style-type: none"> 1) The council unreasonably failed to investigate, and act on, the complainant's reports of antisocial behaviour since 2014 (not upheld) 2) The council's handling of the complaint was unreasonable (not upheld) | Communities Housing and Infrastructure | Complaint Not Upheld | Not applicable | Not applicable |

TABLE 2
Local Authority Complaints Determined by SPSO 2017-18 compared to 2016-17

Local Authority Complaints Determined 2017-18

| Stage | Outcome Group | 2017-18 | |
|----------------------------|---|-----------------------|--------------|
| | | Aberdeen City Council | Sector Total |
| Advice | Not duly made or withdrawn | 15 | 253 |
| | Out of jurisdiction (discretionary) | 0 | 3 |
| | Out of jurisdiction (non-discretionary) | 0 | 5 |
| | Premature | 11 | 381 |
| | Total | 26 | 642 |
| Early Resolution | Not duly made or withdrawn | 1 | 38 |
| | Out of jurisdiction (discretionary) | 8 | 99 |
| | Out of jurisdiction (non-discretionary) | 8 | 113 |
| | Outcome not achievable | 7 | 85 |
| | Premature | 3 | 53 |
| | Proportionality | 22 | 314 |
| | Resolved | 2 | 29 |
| | Total | 51 | 731 |
| | Investigation | Fully upheld | 2 |
| Some upheld | | 1 | 49 |
| Not upheld | | 5 | 69 |
| Not duly made or withdrawn | | 0 | 1 |
| Resolved | | 0 | 3 |
| Total | | 8 | 169 |
| Total Complaints | | 85 | 1,542 |

Local Authority Complaints Determined 2016-17

| Stage | Outcome Group | 2016-17 | |
|-------------------------|---|-----------------------|--------------|
| | | Aberdeen City Council | Sector Total |
| Advice | Not duly made or withdrawn | 8 | 279 |
| | Out of jurisdiction (non-discretionary) | 0 | 3 |
| | Outcome not achievable | 0 | 1 |
| | Premature | 15 | 467 |
| | Total | 23 | 750 |
| Early Resolution | Not duly made or withdrawn | 1 | 43 |
| | Out of jurisdiction (discretionary) | 5 | 82 |
| | Out of jurisdiction (non-discretionary) | 1 | 111 |
| | Outcome not achievable | 5 | 115 |
| | Premature | 3 | 57 |
| | Proportionality | 5 | 132 |
| | Resolved | 3 | 20 |
| Total | 23 | 560 | |
| Investigation | Fully upheld | 0 | 52 |
| | Some upheld | 2 | 42 |
| | Not upheld | 2 | 60 |
| | Not duly made or withdrawn | 0 | 1 |
| | Resolved | 0 | 1 |
| Total | 4 | 156 | |
| Total Complaints | | 50 | 1,466 |

| | 2017-18 | |
|-------------------------------|-----------------------|--------------|
| | Aberdeen City Council | Sector Total |
| Total Premature Complaints | 14 | 434 |
| Premature Rate | 16.5% | 28.1% |
| Total Investigation Decisions | 8 | 165 |
| Total Upholds | 3 | 96 |
| Uphold Rate | 37.5% | 58.2% |

Previous uphold rate calculation for comparison purposes (included incomplete investigations)

| | 2017-18 | 2016-17 |
|---|---------|---------|
| Total Cases 'Fit for SPSO' | 8 | 169 |
| Total Cases Upheld / Some Upheld | 3 | 94 |
| Uphold Rate (total upheld / total fit for SPSO) | 37.5% | 56.8% |

| | 2016-17 | |
|----------------------------|-----------------------|--------------|
| | Aberdeen City Council | Sector Total |
| Total Premature Complaints | 18 | 524 |
| Premature Rate | 35.7% | 37.6% |

| | 2017-18 | 2016-17 |
|---|---------|---------|
| Total Cases Fit for SPSO (Investigations) | 4 | 156 |
| Total Cases Upheld / Some Upheld | 2 | 94 |
| Uphold Rate (total upheld / total fit for SPSO) | 50.0% | 60.3% |

Appendix C – Scottish Welfare Fund SPSO Review Decisions

| Crisis Grant Application Received Date | Application Type | Aberdeen City Council 1st Tier Review Decision Date | SPSO 2nd Tier Review Decision Date | SPSO Decision | Additional SPSO Feedback | Date Implemented |
|---|-------------------------|---|--|---|--|-------------------------|
| 14 August 2018 | Crisis Grant | 14 August 2018 | 29 August 2018 | Aberdeen City Council decision not upheld | It was noted that there had been a misinterpretation of guidance during the decision-making process. | Not applicable |

Appendix D – SPSO Scottish Welfare Fund Annual Statistics 2017-18 compared to 2016-17

Cases closed pre-decision

| Outcome | 2017-18 Aberdeen City Council | | |
|----------------------------|-------------------------------|----------|----------|
| | Community Care | Crisis | Total |
| Advice only | 0 | 0 | 0 |
| Out of jurisdiction | 0 | 0 | 0 |
| Premature | 2 | 1 | 3 |
| Not duly made or withdrawn | 0 | 1 | 1 |
| Total | 2 | 2 | 4 |

Cases closed pre-decision

| Outcome | 2016-17 Aberdeen City Council | | |
|----------------------------|-------------------------------|-----------|-----------|
| | Community Care | Crisis | Total |
| Advice only | 4 | 9 | 13 |
| Out of jurisdiction | 2 | 0 | 2 |
| Premature | 2 | 6 | 8 |
| Not duly made or withdrawn | 0 | 1 | 1 |
| Total | 8 | 16 | 24 |

Total decisions 2017-18

| Application type | Total Decisions | Not Upheld | Upheld | Uphold Rate | National Average Uphold Rate |
|------------------|-----------------|------------|--------|-------------|------------------------------|
| Crisis | 3 | 3 | 0 | 0% | 35% |
| Community Care | 0 | 0 | 0 | 0% | 52% |
| Total | 3 | | | | |

Total decisions 2016-17

| Application type | Total Decisions | Not Upheld | Upheld | Uphold Rate | National Average Uphold Rate |
|------------------|-----------------|------------|--------|-------------|------------------------------|
| Crisis | 2 | 1 | 1 | 50% | 32% |
| Community Care | 1 | 1 | 0 | 0% | 43% |
| Total | 3 | | | | |