

LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN (LGSCO) AND INFORMATION COMMISSIONER'S OFFICE (ICO) UPDATES

Head of Service:	Andrew Bircher, Assistant Director of Corporate Services
Report Author	Kush Chatrath, Kersty Wood
Wards affected:	(All Wards);
Appendices (attached):	N/A

Summary

This report contains information on recent council complaint decisions from the Local Government and Social Care Ombudsman (LGSCO) and the Information Commissioner's Office (ICO), as well as an update on data breaches and new legislation.

Recommendation (s)

The Committee is asked to:

- (1) Note the report.**

1 Reason for Recommendation

- 1.1 To ensure the committee is kept apprised of complaints involving the Ombudsman raised against the council, as well as data breaches, and actions taken to remedy those where the council is found at fault.

2 Background

- 2.1 This is a report to the committee focused on LGSCO and ICO information.
- 2.2 Outside of this, the council receives an annual letter from the LGSCO detailing all Ombudsman complaints they've reviewed in the year. This letter was presented to the committee in July 2025.
- 2.3 An annual complaints report will be brought to this committee setting out performance of the council's complaints handling for stage 1 and stage 2 including lessons learned. This report was last brought to the March 2025 committee and will next be brought in March 2026.

3 Local Government & Social Care Ombudsman decisions made against the

Audit and Scrutiny Committee

05 February 2026

council since the Annual Review Letter in July 2025.

- 3.1 There have been no findings of fault against the council since the Annual Review letter which was presented to the committee in July 2025.
- 3.2 At the time of writing there are two live investigations that the council is assisting the Ombudsman with. Should the council be found at fault in either complaint, details will be shared with this committee at the next available meeting following the determination from the Ombudsman.
- 3.3 Further information on decisions made by the Ombudsman can be found on the LGSCO's website ([Epsom & Ewell Borough Council - Local Government and Social Care Ombudsman](https://www.ebw.gov.uk/ombudsman))

4 Information Commissioner's Office

Data Breaches

- 4.1 There has been a total of ten breaches reported internally since April 2025. Of these ten breaches, two have been considered reportable to the ICO.
- 4.2 Of the two breaches reported to the ICO by the council, only one was a breach committed by the council. The other breach was one that the council was notified of, committed by a third party, which involved data that the council had disclosed correctly to a third party. As the council was aware of the breach a decision was made to report this to the ICO.
- 4.3 The council has not heard back from the ICO regarding either of the two breaches that have been reported.
- 4.4 Breaches have occurred due to files being saved to the wrong internal drive, data being sent to the wrong person via email and a letter being sent to an incorrect address.
- 4.5 Staff involved in data breaches are assessed as to whether additional training is required. .

Complaints to the ICO

- 4.6 The council has been notified of one complaint received by the ICO regarding the council, from a resident regarding the deletion of staff mailboxes once a member of staff leaves the organisation.
- 4.7 The complaint alleged that the resident was unable to obtain an email that they had requested through a Subject Access Request as it had been deleted when a staff member left the organisation. The ICO made it clear from the outset that they intended to take no action against the council, but the council did provide a response to the ICO which is summarised below.

Audit and Scrutiny Committee

05 February 2026

- 4.8 The council explained that the current practice of deleting mailboxes within 30–60 days after an employee has left the organisation is supported by industry-standard guidance and aligns with good records management principles. As per ICO recommendations, organisations should retain information only as long as it is needed and dispose of it when no longer required.
- 4.9 The emails in question were considered not needed for any business purpose, they all related to matters considered closed and historic. The resident had been sent the emails initially as the intended recipient and has had many of them disclosed already in Subject Access Requests in previous years.
- 4.10 Where an investigation, legal matter, or information request is in progress and ICT has been consulted, the mailbox is placed under a litigation or in-place hold to ensure relevant data is preserved until it is appropriate to remove.
- 4.11 Similarly, in the case of staff leaving, where emails or information is considered important this information is backed up or saved outside of our email system by managers who are given access to mailboxes and computer files before they are deleted.
- 4.12 The ICO acknowledged the council's response, and no further action was taken.

The Data Use and Access Act 2025 (DUAA 2025)

- 4.13 The DUAA 2025 is a new Act of Parliament that updates some laws about digital information matters. The DUAA 2025 amends, but does not replace the UK GDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations (PECR).
- 4.14 Key changes for the council include recognised legitimate interests which is a new lawful basis provision for processing based on a recognised legitimate interest, removing the need for time consuming Legitimate Interest Assessments for certain types of data use. The Secretary of State now has the power to amend a list of official pre-approved legitimate interests which include, but is not limited to, specific purposes such as disclosures to public bodies, national security, crime prevention or safeguarding.
- 4.15 Another key change includes the way the council will be expected to handle Subject Access Requests and the time limits relating to response timescales.

Audit and Scrutiny Committee

05 February 2026

- 4.16 The council will also become responsible for handling GDPR / Data Complaints directly within the organisation, removing the automatic right that the public have to go straight to the ICO. Colleagues are working to establish processes and procedures which will allow the council to handle these complaints, including updates to the Complaint Policy which will factor in these changes.
- 4.17 Changes are to be phased in between June 2025 and June 2026, with guidance expected to have been provided to organisations over winter 2025/26 on complaints, data sharing, recognised legitimate interests, right of access and purpose limitation principles.
- 4.18 Officers are working closely with our Data Protection Officer and consultants Data Protection People to produce guidance and training for Officers and Members on this new Act of Parliament. Further information will follow.

5 Risk Assessment

Legal or other duties

- 5.1 Equality Impact Assessment
 - 5.1.1 None that arise directly from this report
- 5.2 Crime & Disorder
 - 5.2.1 None that arise directly from this report
- 5.3 Safeguarding
 - 5.3.1 None that arise directly from this report
- 5.4 Dependencies
 - 5.4.1 None that arise directly from this report
- 5.5 Other
 - 5.5.1 None that arise directly from this report

6 Financial Implications

- 6.1 There are currently no identified financial implications. However, the Finance team is actively monitoring the situation in collaboration with relevant colleagues and will ensure that any costs arising from the breaches outlined above can be met within existing resources.

Audit and Scrutiny Committee

05 February 2026

6.2 **Section 151 Officer's comments:** None arising directly from this report but as mentioned above the outcome of the two breaches will be monitored closely.

7 Legal Implications

7.1 **Legal Officer's comments:** None further for the purposes of this report.

8 Policies, Plans & Partnerships

8.1 **Council's Key Priorities:** The following Key Priorities are engaged:

- Effective Council

8.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.

8.3 **Climate & Environmental Impact of recommendations:** N/A

8.4 **Sustainability Policy & Community Safety Implications:** N/A

8.5 **Partnerships:** N/A

8.6 **Local Government Reorganisation Implications:** N/A

9 Background papers

9.1 The documents referred to in compiling this report are as follows:

Previous reports:

- A version of this report has been taken to past A&S committee meetings.

Other papers:

- None