

LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN ANNUAL REVIEW LETTER AND INFORMATION COMMISSIONER'S OFFICE UPDATES

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Wards affected: (All Wards);

Appendices (attached):

Summary

This report provides the annual review of complaints received and decisions made by the Local Government and Social Care Ombudsman (LGO) between April 2025 and March 2026 inclusive, including details of two complaints upheld by the LGO. This report also provides an update on data breaches and the way the council handles data complaints as a result of updated legislation.

Recommendation (s)

The Committee is asked to:

(1) Note the report.

1 Reason for Recommendation

- 1.1 To ensure the committee is kept appraised of the Ombudsman's Annual Review Letter.
- 1.2 To ensure the committee is kept appraised of complaints involving the Ombudsman raised against the council.
- 1.3 To ensure the committee is kept appraised of data breaches.

2 Background

- 2.1 The LGO produces an Annual Review Letter for all local authorities detailing the number and type of complaints received and decisions made relating to each authority. The annual review letter for the period from 1 April 2025 to 31 March 2026 relating to Epsom and Ewell Borough Council is attached to this report as Appendix 1.

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- 2.2 Since this committee last met there have been two complaints upheld by the Ombudsman, details of which have been set out in this report.
- 2.3 The council records and logs all data breaches, details of breaches that have occurred since the last report have been included in this report.

3 Annual Review Letter 2025-26

- 3.1 The Annual Review Letter sets out that for the year ending 31st March 2026 the LGO received a total of 18 complaints relating to Epsom and Ewell Borough Council, an increase from 15 complaints received in the previous year.
- 3.2 A full copy of the letter is included in Appendix 1.
- 3.3 After assessment of the 18 complaints received by the LGO, they found that 9 were not for them or were not ready to be investigated by them. These include complaints brought to the Ombudsman before the council was given a chance to consider the complaint, or complaints where an alternative governing body has authority to consider the complaint (e.g. the Planning Inspectorate or the Information Commissioner's Office).
- 3.4 They assessed and closed 7 complaints. Reasons for this could be that the law says the LGO are not allowed to investigate, or it would be a poor use of public funds if they did.
- 3.5 This left 2 complaints that were investigated. However there is a discrepancy between the information the council was sent at the time that one of these complaints was assessed by the Ombudsman, as the paperwork the council received at the time for one of these complaints stated that the Ombudsman was not investigating the complaint. In the Annual Review Letter and accompanying statistics, the Ombudsman has recorded the complaint as being investigated and upheld.
- 3.6 The council queried why the Ombudsman could uphold a complaint without investigating it, they responded as follows:

"Further to your additional enquiry, in our decision statement we summarise this case as" we will not investigate this complaint about ongoing refuse problems near Miss X's home. This is because the Council took satisfactory action in response to the complaint."

The outcome of this case is "Injustice remedied during organisations complaint processes." This type of outcome is considered as upheld.

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Under our powers in the Local Government Act 1974, section 24A(7), (as amended) we can decide not to start an investigation if we are satisfied with the actions an organisation has taken or proposes to take. An Investigator in our Assessment Team considered the actions you were taking and or proposing to take and considered these actions were sufficient. Any further investigation would not have changed the outcome.

- 3.7 Therefore, the LGO were happy with the way the council dealt with the complaint during our internal complaints process, and as the complaint was upheld by the council, the LGO marked it as the same.
- 3.8 The table below shows the number of upheld complaints per 100,000 people adjusted to the population of each Borough and District in Surrey, as well as the number of complaints received by the Ombudsman and the number of investigations they conducted.

Borough/District	Upheld complaints per 100,000 people	Number of complaints received.	Number of complaints upheld.
Elmbridge	0.7	18	1
Epsom & Ewell	2.4	18	2
Guildford	0.7	14	1
Mole Valley	2.3	15	2
Reigate and Banstead	0	13	0
Runnymede	1.1	11	1
Spelthorne	2.8	24	3
Surrey Heath	1.1	13	1
Tandridge	0	11	0
Waverly	1.5	15	2
Woking	1.9	17	2

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- 3.9 A table comparing the number of complaints received by the Ombudsman and the number of complaints upheld by the Ombudsman for Epsom & Ewell is below:

EEBC	2021/22	2022/23	2023/24	2024/25	2025/26
Number of complaints received by the Ombudsman	11	17	24	15	18
Number of complaints upheld	2	2	2	0	2

4 Details of complaints upheld by the Ombudsman

- 4.1 The first upheld complaint (also referenced above) was not investigated by the Ombudsman but attracted a decision of upheld due to the council upholding the complaint at stage 2.
- 4.2 The complaint concerned ongoing build-up of refuse and fly tipping close to the resident's home, causing rodent infestations.
- 4.3 In the stage two complaint response the Council apologised for the ongoing issues individual X experienced. As a result of their complaint the Council reviewed the efficiency of its current involvement and decided to:
- Increase waste collections from once to twice a week;
 - Increase site inspections from once to twice a week;
 - Make the site a scheduled priority site; and
 - Increase uniformed presence.
- 4.4 The Ombudsman was satisfied that this was a reasonable way to address the complaint and stated that they wouldn't investigate, however the decision has been recorded as upheld by the Ombudsman due to the council upholding the initial complaint.
- 4.5 The second complaint upheld by the Ombudsman concerned individual X who complained that the council:
- Unreasonably issued a section 215 notice against them
 - Destroyed evidence by deleting mailboxes of staff which leave the Council's employment; and
 - Insists reports of breaches of planning control are made on its website or a specific form.

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- 4.6 Upon assessment the Ombudsman made the following decisions
- To investigate individual X's complaint about how the Council considered its duties to consider reasonable adjustments.
 - Not to investigate any reference to the Council issuing a section 215 notice. Individual X had an appeal right to the magistrate's court and it is reasonable for them to use this right.
 - Not to investigate any reference to the Council deleting an officer mailbox after they leave the Council. This is a matter for the information Commissioner's Office (ICO) and it was reasonable for individual X to raise this with the ICO (details of this complaint were brought to this Committee's attention on 05/02/2026).
- 4.7 In relation to the one element of this complaint that the Ombudsman investigated, they found that individual X had not asked for a reasonable adjustment, although they were presented with evidence to show that they reported issues with their hands. While individual X did not ask for a reasonable adjustment, the Council has an anticipatory duty. When individual X explained the problems they had using their hands, the Council should have asked individual X if they would like to request any reasonable adjustments. The Council should have then considered if the request was reasonable and if it would make any adjustments. The Council did not do this. This is fault.
- 4.8 It is important to note that the Ombudsman cannot say if the Council should have made adjustments, or what any adjustments may have been, and they cannot say not having an adjustment caused individual X any injustice.
- 4.9 However, the council's fault of not discharging its anticipatory duty caused individual X uncertainty.
- 4.10 As a result of this fault identified by the Ombudsman, the council was asked to contact individual X to ask if they need a reasonable adjustment, consider if any request is reasonable and if it is, make suitable adjustments, and also to remind officers of the council's anticipatory duty to make reasonable adjustments under the Equality Act 2010.
- 4.11 These actions were completed within the time stipulated by the Ombudsman, with evidence of this being submitted to the Ombudsman.

Further information on all LGO activity (statistics and decisions) concerning Epsom & Ewell can be found here: [Epsom & Ewell Borough Council - Local Government and Social Care Ombudsman](#)

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5 Information Commissioner's Office Complaints

- 5.1 The council has been notified of two complaints received by the ICO in relation to the council's responses to two Freedom of Information Requests.
- 5.2 The council has not been notified of details of the investigations, the last correspondence from the ICO stated that in each case they were seeking to allocate the complaints to an investigator for further assessment.

Data Breaches

- 5.3 Since the Audit & Scrutiny meeting of 05/02/2026 there has been a total of 11 data breaches. Of these, two were considered reportable to the ICO.
- 5.4 The ICO took no further action with respect to the two breaches reported to them, other than to give the council general advice
- 5.5 9 of the 11 breaches, involved email as the platform through which the breach occurred.
- 5.6 One breach involved the theft of personal belongings of a council employee, and another breach involved a technical error on council hardware which has now been resolved.
- 5.7 Advice has been provided to those members of staff involved in data breaches, which is supported by provision or training and E-Learning.

6 Data Protection Complaints

- 6.1 In the 05/02/2026 meeting of this Committee, it was noted that under the new Data Usage and Access Act 2025 (DUAA 2025) the council will be responsible for handling Data Protection complaints directly within the organisation. This removes the automatic right that the public have to go straight to the ICO.
- 6.2 The council's Complaint Policy has been updated to reflect this change and Customer Services colleagues have been briefed on the new addition to complaints we investigate.
- 6.3 These complaints will be reported on, along with the rest of our corporate complaints.

7 Risk Assessment

Legal or other duties

- 7.1 Equality Impact Assessment
 - 7.1.1 None that arise directly from this report
- 7.2 Crime & Disorder

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7.2.1 None that arise directly from this report

7.3 Safeguarding

7.3.1 None that arise directly from this report

7.4 Dependencies

7.4.1 None that arise directly from this report

7.5 Other

7.5.1 None that arise directly from this report

8 Financial Implications

8.1 None that arises directly from this report

8.2 **Section 151 Officer's comments:** There are no direct financial implications arising from the report. However upheld complaints may create minor ongoing service cost pressures, which are expected to be managed within existing budgets.

8.3 Data breaches and ICO complaints can give rise to potential financial risk, including regulatory action or compensation, although no such costs have arisen in the period reported.

8.4 Continued staff training and process improvements represent a modest investment to mitigate future financial and reputational risks.

9 Legal Implications

9.1 The Council has a statutory duty to consider and respond to complaints of maladministration referred to the Local Government and Social Care Ombudsman. Investigations by the Ombudsman are conducted in accordance with the provisions of the Local Government Act 1974.

9.2 **Legal Officer's comments:** There are no additional legal implications arising directly from the contents of this report beyond those set out above.

10 Policies, Plans & Partnerships

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

- Effective council

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

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

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

10.5 **Partnerships:** N/A

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

11 Background papers

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

Previous reports:

- Local Government & Social Care Ombudsman Annual Review letter 2024/25

Other papers:

- Local Government & Social Care Ombudsman (LGSCO) and Information Commissioner's Office (ICO) Updates – Audit & Scrutiny Committee 05/02/2026.