

## Cabinet

11 October 2018

### Local Government & Social Care Ombudsman – Annual Review and Summary of Upheld Complaints

#### Recommendation

That Cabinet review and comment on the annual review and summary of upheld complaints issued by the Local Government and Social Care Ombudsman in the financial year 2017/18.

#### 1.0 Background

- 1.1 Each year the Local Government and Social Care Ombudsman (LGSCO) produces a review letter which contains a summary of statistics on the complaints made about the Council for the year ended 31 March.
- 1.2 This report attaches a copy of the LGSCO's letter for 2017/18 (See Appendix) and provides more detail in relation to the themes identified by the upheld cases (section 4).

#### 2.0 Upheld decisions in 2017/18

- 2.1 In the financial year 2017/18 69 complaints and enquiries were received by the LGSCO in respect of Warwickshire County Council. Out of the 71 decisions made by the LGSCO in this period (which includes a number received in the previous year) 26 were the subject of full LGSCO investigations and of these 11 complaints were upheld and 15 were not upheld giving the Council an uphold rate of 42%.
- 2.2 45 out of the 71 decisions made by the LGSCO in respect of the Council in this period did not require detailed investigations by the LGSCO and the majority were referred back for local resolution or closed after initial enquiries were made by the LGSCO. These figures can be seen in the table attached to the LGSCO's letter at Appendix 1.
- 2.3 Of the 11 upheld complaints:
  - 8 related to People Group cases and of these 3 related to Children's Safeguarding and 5 to Adult Social Care and Support (1 of these 5 related to a Blue Badge complaint); and
  - 3 related to Communities Group cases and all 3 related to Education & Learning (1 related to a School Admission Appeal and 2 to Education, Health & Care Plan/Special Educational Needs complaints).

- 2.4 Of the 11 upheld decisions, 10 were made in Statements of Reasons (where the Ombudsman is satisfied with the action the authority has taken or proposes to take and it would not be appropriate to issue a formal Report) and 1 Report was issued, requiring a formal response, which was considered by Cabinet on 9th November 2017. This was in relation to a complaint about school transport costs for a child in foster care who was entitled to free school transport.
- 2.5 The LGSCO's Annual Letter refers to 2 formal reports being issued last year (2017/2018), however, one of these reports was actually issued to the Council on 29 March 2017 (although it was published by the LGSCO on 20 June 2017) and was therefore included in the statistics and report to Cabinet last year. This was in relation to a complaint about the failure of the Council and a Borough Council to adequately support an individual to move out of residential care and live independently in the community with appropriate support.

### 3.0 Comparison to previous years and other local authorities

- 3.1 By way of comparison to previous years, the number of upheld complaints in 2017/18 is the same as last year. Whilst there will be various reasons for the year on year variation in the number of upheld complaints, this data can be useful as a general guide to see how the Council is performing when it comes to complaints. The number of upheld complaints in previous years was as follows:

Financial Year	Number of complaints upheld by the LGSCO
2016/2017	11
2015/2016	4
2014/2015	18
2013/2014	19

- 3.2 Comparing the number of upheld decisions to other similar size or types of local authority Warwickshire has the lowest uphold rate. However, unlike last year, this year the LGCSO found that Warwickshire had not remedied any of the complaints which it investigated fully prior to LGSCO involvement:

Authority Name	Complaints and Enquiries Decided (by Outcome) 2017-18									
	Invalid or Incomplete	Advice Given	Referred Back for Local Resolution	Closed after Initial Enquiries	Not Upheld	Upheld	Uphold Rate (%)	Total	Complaints Remedied by LGO	Complaints Remedied by Authority
Dorset County Council	5	0	21	14	9	8	47	57	8	0
Gloucestershire County Council	6	0	23	19	8	8	50	64	6	2
Northamptonshire County Council	5	1	40	17	7	21	75	91	18	3
Oxfordshire County Council	2	0	14	12	5	7	58	40	7	0
Staffordshire County Council	7	2	39	28	10	40	80	126	33	5
Warwickshire County Council	2	0	31	12	15	11	42	71	10	0

## 4.0 Themes from upheld complaints

- 4.1 All of the Council's upheld cases were in relation to Adult Social Care, Children's Safeguarding and Education and Learning. This aligns with the overall trend of complaint areas experienced by the LGSCO. The LGSCO has produced a Review of local government complaints for 2017/18 which can be found on the LGSCO website (<https://www.lgo.org.uk/information-centre/reports/annual-review-reports/local-government-complaint-reviews>).
- 4.2 Some themes identified from those complaints the LGSCO upheld in relation to this Council include the following:
- Adequately meeting adult social care needs or meeting them in a timely way;
  - Delays in dealing with enquiries and complaints;
  - Delays in dealing with/reviewing Education Health and Care Plans;
  - Failure to follow own procedures and policies;
  - Failure to properly take into account legal obligations and government guidance when making decisions on eligibility for services.
- 4.3 From the number of upheld complaints where delays in dealing with complaints or enquiries was a factor, it is clear that this is an area where improvements can be made to increase customer satisfaction and reduce further upheld complaints. Specific work is already being carried out in respect of improving the way that adult social care complaints are dealt with and the process around Education Health and Care Plans. Reducing delays should form part of this work and any wider work that is being done to improve the way the Council deals with complaints.
- 4.4 The LGSCO issues themed Focus Reports in respect of issues that their investigations have commonly uncovered across different councils. These are shared with relevant colleagues across the Council. The LGSCO expects councils to have regard to these Focus Reports and is likely to be more critical of the actions of councils in future investigations if it is apparent that the council has failed to take these Focus Reports into account. Last year the LGSCO issued 2 Focus Reports that are relevant to this Council:
- The Right to Decide: towards a greater understanding of mental capacity and deprivation of liberty; and
  - Education, Health and Care Plans: our first 100 investigations.
- 4.5 Officers have arrangements in place to ensure that the themes identified from our own cases and more widely from other LGSCO cases, are shared across the organisation as necessary so that lessons can be learnt and we will continue to keep these arrangements under review.

## **5.0 Reporting upheld complaints**

- 5.1 Our performance in relation to LGSCO complaints is one of the Council's key performance indicators. We currently have a target of no more than 12 upheld decisions (last year the target was 10 but this year's target includes upheld Information Commissioner/Tribunal decisions and Judicial Reviews). So far this year (2018/2019) there have been 6 upheld LGSCO complaints (to week ending 14.09.2018). Performance against this target is reported quarterly to Cabinet as part of our standard reporting arrangements.
- 5.2 In addition to this annual report to Cabinet, specific, individual cases where there has been a significant finding of maladministration (usually by way of a formal Report) are also reported to Cabinet on an individual basis.
- 5.3 Separately, where there are recommendations of ex gratia payments to be made above £1000, there is a requirement for approval from the Regulatory Committee.

## **6.0 Looking to the future**

- 6.1 In his Annual Letter the LGSCO refers to the plans to move away from a simplistic focus on complaint volumes and instead focus on the lessons that can be learned from complaints. The LGSCO will therefore publish a wider range of data in next year's Annual Review Letter, which will include further information on remedies and whether local authorities have complied with recommended remedies in the timescales set out by the LGSCO in decision letters.
- 6.2 It is therefore clear that the Council needs to have an increased focus on trying to resolve complaints where possible before the LGSCO gets involved. Where the LGSCO investigates and suggests remedies to put right any injustices that have occurred, the Council needs to ensure that it is satisfied that the remedy is appropriate and achievable within the timescales required before they are agreed, as the LGSCO will be measuring compliance against these agreed remedies.
- 6.3 Complaints about the Council are becoming increasingly complex involving multiple teams across the Council and other partners such as service providers or other public bodies like the NHS. There is a need to ensure that early on in a complaint investigation an appropriate individual is identified to lead on the investigation to ensure that responses are coordinated and complete. Contractual and partnership arrangements should therefore be clear about how complaints are dealt with to ensure that appropriate actions are taken in an effective and timely manner.
- 6.4 Legal services will work with the Customer Relations Team to ensure that these highlighted issues are addressed so that lessons can be learned from previous upheld LGSCO complaints.

## Appendix

LGSCO Annual Letter

### Background papers

None

	<b>Name</b>	<b>Contact Information</b>
Report Author	Sioned Harper	<a href="mailto:sionedharper@warwickshire.gov.uk">sionedharper@warwickshire.gov.uk</a> Tel: 01926 412921
Assistant Director	Sarah Duxbury	<a href="mailto:sarahduxbury@warwickshire.gov.uk">sarahduxbury@warwickshire.gov.uk</a> Tel: 01926 412090
Joint Managing Director	David Carter	<a href="mailto:davidcarter@warwickshire.gov.uk">davidcarter@warwickshire.gov.uk</a> Tel: 01926 412564
Portfolio Holder	Cllr Kam Kaur	<a href="mailto:cllrkaur@warwickshire.gov.uk">cllrkaur@warwickshire.gov.uk</a> Tel: 07985 251851

The report was circulated to the following members prior to publication:

Local Member: N/A

Other members: Councillors Boad, Kaur, O'Rourke, Crump, Singh Birdi, Timms

18 July 2018

*By email*

David Carter  
Joint Managing Director  
Warwickshire County Council

Dear David Carter,

### **Annual Review letter 2018**

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

#### **Complaint statistics**

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

I issued two public reports about your Council last year.

The first report concerned the Council's refusal to pay the school transport costs for a child placed with foster carers and who was entitled to free school transport. The Council was

treating the children it cared for differently to those living with their families. After taking its own advice, the Council accepted our position was correct. The Council acted on our recommendations. It apologised to the foster carers involved and paid them the costs they had incurred - £1,218. It also agreed to remedy the injustice others may have suffered by writing to all its foster carers about the case inviting them to make a claim if they believed a child they had cared for should have received free home to school transport. In addition, it reviewed its payments to foster carers and its school transport policy. I welcome the action the Council has taken and am pleased to note the Council fully complied with these recommendations.

The second report was a joint report with a borough council concerning the Councils' failure to support a man to move out of residential care to live independently in the community with appropriate support. We found the Council delayed finding appropriate accommodation for the man. It failed to properly support him through the care planning process, made assumptions about his capacity and failed to follow the best interests process in its decision making. It also failed to work together with the borough council to take an overview of the man's needs and how these could be best met.

The Council acted on our recommendations to apologise to the man, pay him £2,000 and review its practices to ensure mental capacity assessments were carried out at the appropriate times. I am pleased to note the Council fully complied with these recommendations. We also recommended both Councils reviewed how they worked together to ensure there was a coordinated approach to cases involving social care and housing. I am pleased to note the Council, as part of its programme board approach, has taken this a step further to ensure working practices are improved and there is better coordination between it and all five housing authorities in its area in relation to housing and social care.

I am pleased to see the steps the Council has taken to implement the recommendations from these two reports and am encouraged by how it has used the learning from these complaints to drive improvements to services.

### **Future development of annual review letters**

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new [corporate strategy](#) for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will be seeking views from councils on the future format of our annual letters early next year.

### **Supporting local scrutiny**

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at [www.lgo.org.uk/scrutiny](http://www.lgo.org.uk/scrutiny). I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

### **Learning from complaints to improve services**

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the [reports](#) and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

### **Complaint handling training**

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M King', with a stylized flourish at the end.

Michael King  
Local Government and Social Care Ombudsman  
Chair, Commission for Local Administration in England



**Local Authority Report:** Warwickshire County Council  
**For the Period Ending:** 31/03/2018

For further information on how to interpret our statistics, please visit our website:  
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

## Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
30	0	2	31	1	5	0	0	0	69

## Decisions made

Decisions made				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
2	0	31	12	15	11	42%	71

### Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.  
 The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

### Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
10	0