

Cabinet

14 October 2021

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

Recommendation(s)

1. Cabinet is recommended to receive and comment on the annual review and summary of upheld complaints issued by the Local Government and Social Care Ombudsman in the financial year 2020/21.

1. Executive Summary

- 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 2020/21 (Appendix 1) and provides more detail in relation to the themes identified by the upheld cases and action being taken (section 6).

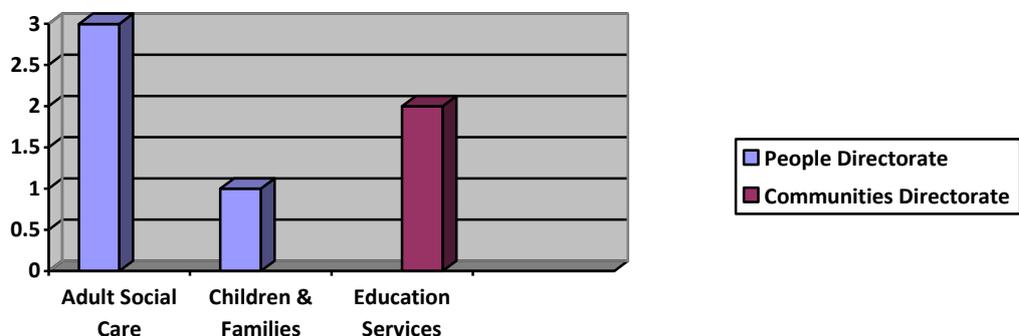
2. Complaints received by the LGSCO and decisions made

- 2.1 In the financial year 2020/21, 50 complaints and enquiries were received by the LGSCO in respect of Warwickshire County Council. The breakdown of the areas these complaints and enquiries related to were as follows:
 - 2.1.1 Adult Social Care = 20
 - 2.1.2 Corporate & other services = 1
 - 2.1.3 Education & Children's Services = 25
 - 2.1.4 Highways & Transport = 3
 - 2.1.5 Other = 1
- 2.2 In this period the LGSCO made 41 decisions (which includes a number of decisions in respect of complaints received by the LGSCO in the previous year (2019/20)). Of these 41 decisions, the LGSCO decided that:
 - 2.2.1 1 complainant was given advice and signposted back to complaint handling;
 - 2.2.2 1 complaint was incomplete or invalid;
 - 2.2.3 17 complaints were referred back to the Council for local resolution;
 - 2.2.4 13 complaints were closed after initial enquiries were made with the Council; and

2.2.5 9 complaints were the subject of full LGSCO investigations.

2.3 Of the 9 cases investigated, 6 complaints were upheld and 3 were not upheld, giving the Council an uphold rate of 67%. This is lower in percentage terms than the average for similar local authorities in this period (71%). The upheld rate should also be viewed in the context of the overall number of decisions made by the LGSCO in this period and the method of calculation. The LGSCO figure of 67% calculates the percentage against the number of complaints investigated (i.e. 6 upheld from 9 that were fully investigated) rather from the total number of complaints about the Council the LGSCO decided on in that period.

2.4 The table below illustrates the breakdown of complaints upheld by area:



2.5 The LGSCO's Annual Letter includes details about compliance with agreed remedies. This shows that out of the 6 compliance outcomes for the period between 1 April 2020 to 31 March 2021, the Council had a compliance rate of 100%. The LGSCO in his Annual Letter does note that whilst this compliance rate is pleasing, it is disappointing that in four of these cases, remedies were not completed within the agreed timescales. The LGSCO has noted that he highlighted delays in the remedy process in his previous annual letter to the Council and is therefore concerned that the issues persist. The LGSCO has invited the Council to consider how it might make improvements to reduce delays in the remedy process, including informing the LGSCO promptly when it completes a remedy.

2.6 The complaints that these decisions on remedies relate to are not necessarily the same complaints that were upheld in the same period and referred to in paragraph 2.1 as they may have been upheld in the previous financial year.

2.7 In terms of the complaints that were remedied outside of the agreed time frames:

2.7.1 Two related to complaints made about Education & Learning and delays in completing the remedies were caused in large part by the impact of Covid-19 and the officers responsible for implementing the agreed actions being at the heart of the Council's education Covid-19 response; and

2.7.2 Two related to complaints made about Adult Social Care. In respect of one of these complaints the timeframes for the remedies were agreed just before the Covid-19 pandemic, when the focus of social care staff necessarily changed fundamentally. The LGSCO suspended casework with local authorities during part of this period. In respect of the other complaint, it took longer to implement the remedy in part because a decision on the compensation payable needed to be taken to the Regulatory Committee but also because some of the information to enable the remedy to be implemented had not been received from the complainant.

2.8 Officers in Legal Services monitor the implementation of remedies and continue to work closely with the relevant officers to encourage timely completion of remedies. Where it is not possible to do so because of events outside of the officers' control, the Council communicates with the LGSCO to see whether the agreed remedy, or the timescale, can be reviewed. A reminder of the importance of ensuring timely compliance with agreed remedies and the importance of ensuring they are achievable has been given to relevant officers who deal with these complaints. Consideration is also being given to whether additional monitoring of agreed remedies by the Council's Link Officer with the LGSCO (who sits in Legal Services) would help.

3. LGSCO Review of Local Government Complaints 2020/21

3.1 The LGSCO's Review of Local Government Complaints 2020/21 which was published at the end of July 2021 reports that across Local Government:

3.1.1 They are finding fault more often: they upheld 67% of complaints they investigated, up from 61% last year

3.1.2 The uphold rate increased across all categories of complaint, except Environmental Services. They continue to uphold the highest proportion of complaints about Education and Children's Services (77%)

3.1.3 They recommended 1,488 service improvements, up 2% on the previous year (as a proportion of all recommendations made)

3.1.4 Compliance with their recommendations remains high at 99.5%

3.2 The Review also highlights that the LGSCO published 40 public interest reports during the year 2020/21 and whilst the breadth of their casework is represented, complaints about Education and Children's Services continue to dominate, being the subject matter in two fifths of their reports.

3.3 The Review notes that compliance with agreed remedies remains high and that most local authorities demonstrate a willingness to put things right for individuals and commit to often significant wider reviews of services changes

to ensure others are not similarly affected by the faults their investigations uncover. The LGSCO commends such an approach.

- 3.4 The LGSCO also talks about the impact of the pandemic on local authorities and in particular on their complaint handling systems and notes that whilst the challenges local authorities are facing cannot be underestimated nor can the impact of the pandemic, he is concerned about the general erosion to the visibility, capacity, and status of complaint functions within local authorities.
- 3.5 The LGSCO reiterates that good public administration is more important than ever and managing complaints effectively is key to drive learning and improvement in public services. The LGSCO wants to use the evidence of its casework to identify those local authorities that require support to improve their complaint handling and wants to target specific support to those local authorities.
- 3.6 The full Report can be found online at <https://www.lgo.org.uk/information-centre/reports/annual-review-reports/local-government-complaint-reviews>.

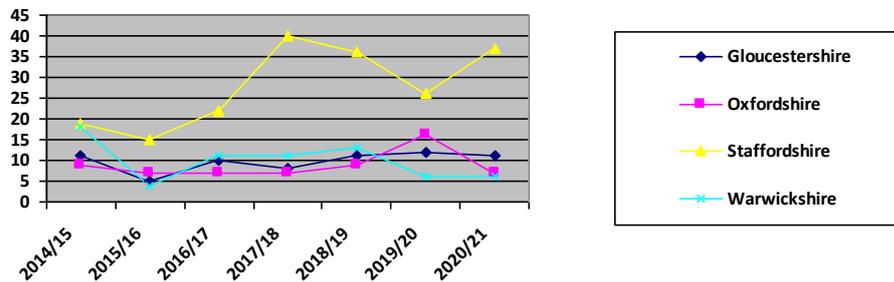
4. Actions taken by the Council to remedy fault

- 4.1 In terms of the actions that this Council agreed to take to remedy fault found by the LGSCO in 2020/21 (the 6 upheld complaints referred to in paragraphs 2.3 and 2.4 above):
 - 4.1.1 In 5 of the cases a financial remedy was agreed including agreement to refund or waive care fees and to refund costs incurred as a result of fault. In 3 of those cases the Council agreed to make payments to recognise the time and trouble in bringing the complaint or avoidable distress caused as a result of the fault. These payments totalled £1000.
 - 4.1.2 In 2 cases the Council agreed to reconsider a decision.
 - 4.1.3 In 2 cases the Council agreed to provide training/guidance to staff.
 - 4.1.4 In 2 cases the Council agreed to provide information or advice.
 - 4.1.5 In 2 cases the Council agreed to review policies or practices.

5. Comparison to previous years and other local authorities

- 5.1 By way of comparison to last year, the number of upheld complaints has remained the same (6 upheld complaints) but the percentage of upheld complaints out of all investigations undertaken has reduced. No formal Reports were issued against the Council in 2020/21.
- 5.2 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 LGSCO complaints. The

number of upheld complaints in previous years can be seen on the graph below and includes those for other County Councils in the West Midlands as a comparison:



6. Themes from upheld complaints and actions being taken

- 6.1 The largest number of upheld complaints in any single area for the Council was in relation to Adult Social Care where there were 3 upheld complaints in 2020/21. One complaint related to the quality of care received, another related to how the Council had calculated a personal budget and the other related to meeting needs in line with a support plan.
- 6.2 The service area with the second highest number of upheld complaints was Education Services, where the LGSCO upheld 2 complaints. One related to education provision whilst a child was out of school and integrating them back into school and the other related to school transport.
- 6.3 A further upheld complaint was in relation to Children & Families and related to the way a parental assessment was undertaken.
- 6.4 Colleagues from Legal Services and the Customer Relations Team continue to monitor any themes arising from LGSCO complaints and work with relevant service areas to highlight areas of concern. Focus Reports issued by the LGSCO are also brought to the attention of relevant service areas. These are reports that the LGSCO issues periodically to highlight common or systemic issues that they see in the complaints they investigate. The intention is to share learning from complaints with local authorities, to contribute to public policy debates and give elected members tools to scrutinise local services.

7. Reporting upheld complaints

- 7.1 Performance in relation to LGSCO complaints is one of the Council's Corporate Health Measures. For 2020/21 we had a target of no more than 10 upheld decisions (which included upheld Information Commissioner/Tribunal decisions and Judicial Reviews). This target was not exceeded in 2020/21. There were 6 upheld LGSCO complaints and no upheld Information Commissioner Office's decisions or adverse Judicial Review decisions.

8. Financial Implications

- 8.1 Financial implications of the individual upheld decisions have been included within the body of the report and totalled £1,000. These costs will be met from the resources of the individual services concerned.

9. Environmental Implications

- 9.1 None.

10. Supporting Information

- 10.1 None

11. Timescales associated with the decision and next steps

- 11.1 None

Appendices

1. Appendix 1 - LGSCO Annual Letter and appendices

Background Papers

None

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

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Other members: The Chair and Party Spokes of the Resources and FRS Overview and Scrutiny Committee