

# Cabinet

8 September 2022

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

### Recommendation

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 2021/22.

#### 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.
- 1.3 In summary, between 1 April 2021 and 31 March 2022 the LGSCO undertook 19 detailed investigations about the Council and upheld 14 of these complaints. This is an increase from the number of detailed investigations undertaken in the previous financial year (9) and the number of complaints that were upheld (6) in that period. It is not easy to be definitive about the reasons for this increase, however the pause on complaint investigations as a result of the Covid-19 pandemic is likely to have had an impact.
- 1.4 In terms of remedies to address fault found, the LGSCO has welcomed that the Council agreed to and implemented the recommendations the LGSCO made in 14 cases in 2021/22. The LGSCO notes that in 3 cases the recommendations were not completed within agreed timescales.
- 1.5 The LGSCO has also commented on the fact that the response times of the Council to inquiries made by the LGSCO during their investigations have fallen short of what they expect. The LGSCO has asked the Council to reflect on this and take steps to reduce avoidable delays.
- 1.6 The LGSCO has specifically highlighted good practice by the Council when it demonstrated a positive approach to learning and a proactive response by quickly accepting fault in a case and offering a suitable remedy, which recognises the swift action the Council took to put things right.

## 2. Complaints received and decided by the LGSCO and upheld complaints and action taken

2.1 In the year 2021/22 the LGSCO received 54 complaints and enquiries and made 58 decisions in respect of Warwickshire County Council (which includes a number of decisions in respect of complaints received by the LGSCO in the previous year). The outcomes of these decisions were as follows:

2.1.1 Advice given = 3

2.1.2 Closed after initial enquiries = 19

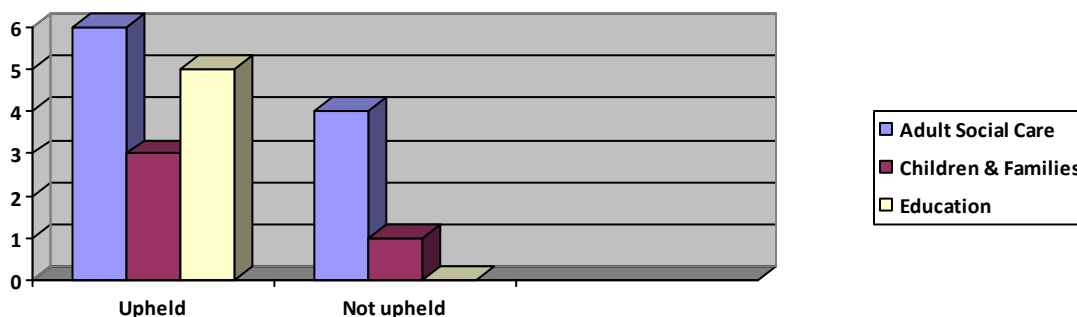
2.1.3 Incomplete/invalid = 3

2.1.4 Referred to the Council for local resolution = 14

2.1.5 Full investigation undertaken = 19

2.2 Of the 19 cases which were subject to a full investigation, 14 complaints were upheld and 5 were not upheld, giving the Council an uphold rate of 74%. This is slightly higher than the average for similar local authorities in this period (71%).

2.3 The upheld complaints were in relation to Adult Care Services and Education and Children's Services. These were the only areas in which the LGSCO undertook detailed investigations. The below table shows the breakdown and how many complaints were upheld and not upheld.



2.4 The uphold rate for each of these areas was as follows:

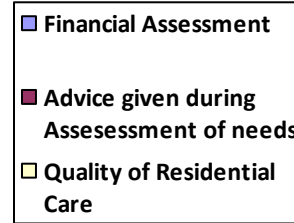
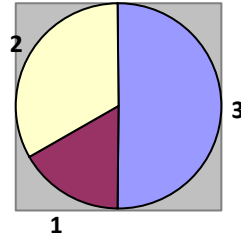
2.4.1 Adult Social Care = 60% - 10 complaints were fully investigated and 6 were upheld. Across all local authorities the rate for this area was higher at 69%

2.4.2 Children & Families = 75% - 4 complaints were fully investigated and 3 were upheld. Across all local authorities the rate for this area was higher at 77% (this was for all Education & Children's Services complaints)

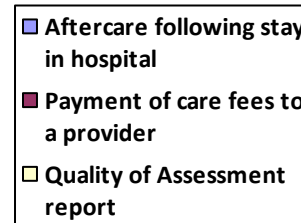
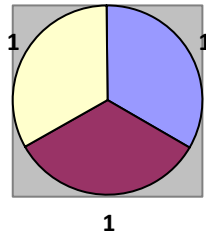
2.4.3 Education = 100% - 5 complaints were fully investigated and all were upheld. Across all local authorities this rate for this area was lower at 77% (this was for all Education & Children's Services complaints)

2.5 The upheld decisions broadly fall into the following categories:

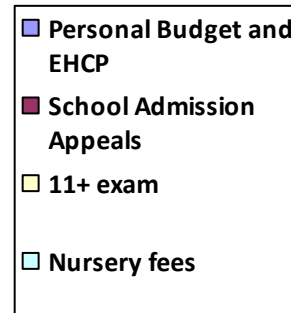
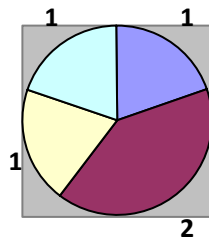
**Adult Social Care**



**Children & Families**



**Education**



2.6 In respect of the 14 upheld complaints in 10 cases the LGSCO made recommendations for the Council to remedy the fault found. In 3 cases no further action was required by the LGSCO (and in 2 of these, the Council has queried the determination of 'complaint upheld' as the LGSCO discontinued its investigation after school places were offered without any finding of fault) and in 1 case the LGSCO found that the Council had already taken appropriate action to remedy the fault.

- 2.7 In 8 out of the 10 cases where recommendations were made by the LGSCO these remedies have been completed by the Council to the satisfaction of the LGSCO. In 7 of these cases the remedies were completed on time, however, in 1 case the remedy was completed late. In the 2 remaining cases we are awaiting a decision from the LGSCO as to whether the remedies have been completed to their satisfaction.
- 2.8 In terms of learning from upheld complaints, officers from Legal Services and the Customer Relations Team continue to monitor themes arising and work with relevant service areas to highlight areas of concern. Focus Reports and formal Reports issued by the LGSCO are also brought to the attention of relevant service areas.
- 2.9 Performance in relation to LGSCO complaints is one of the Council's Corporate Health Measures. For 2021/22 there was a target of no more than 10 adverse decisions (which included upheld Information Commissioner/Tribunal decisions and Judicial Review proceedings against the Council). This target was exceeded in 2021/22 as there were 14 upheld LGSCO decisions and 3 upheld complaints about the Council by the Information Commissioner.

### **3. Compliance with LGSCO recommendations**

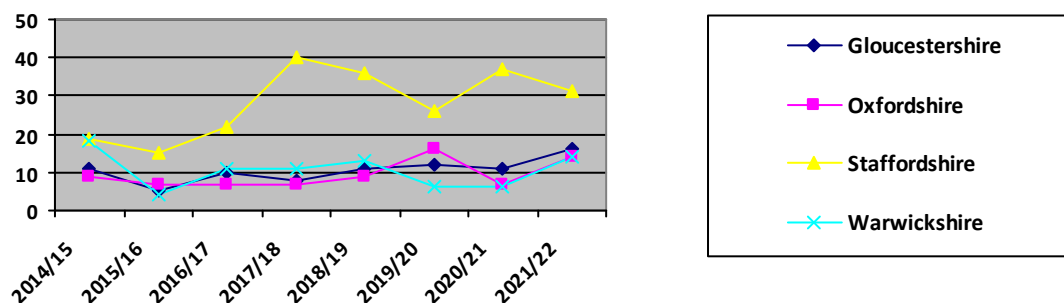
- 3.1 In 2021/22 the LGSCO was satisfied that in 100% of cases the Council had successfully implemented the remedies proposed by the LGSCO, although notes that three were implemented beyond the agreed timescale. This compares to an average of 100% in similar local authorities and is based on a total of 14 compliance decisions made by the LGSCO in this period.
- 3.2 In respect of these 14 remedies implemented they breakdown as follows:
- 3.2.1 **Apology** – was given in 7 cases
  - 3.2.2 **Financial redress** – was given in 8 cases – either to remedy a loss of service or quantifiable loss or to remedy avoidable distress/time and trouble. None of the financial remedies agreed in 2021/22 were at the level that required approval by Regulatory Committee.
  - 3.2.3 **Training and/or guidance** – was provided in 4 cases
  - 3.2.4 **New appeal/review or reconsidered decision** – was provided in 4 cases
  - 3.2.5 **Procedure or Policy change/review** – was provided in 2 cases

### **4. Comparison to previous years and to other local authorities**

- 4.1 Compared to the previous year (2020/21) the number of upheld complaints has risen from 6 to 14 upheld and the percentage of upheld complaints out of all that were fully investigated has risen from 67% (6 out of 9) to 74% (14 out of 19). No formal Reports were issued against the Council again in 2021/22.

4.2 Whilst there will be various reasons for the year-on-year variations in the number of upheld complaints, it is likely that to the pause on complaint investigations as a result of the pandemic by both the Council and the LGSCO has contributed to this rise. In at least 3 cases there appears to have been delays in either the Council responding to complaints or the LGSCO investigating complaints during the initial months of the pandemic when the LGSCO paused its investigations.

4.3 In terms of how this Council compares to other similar local authorities in the West Midlands the below graph shows the number of upheld complaints over the past few years which demonstrates that Warwickshire is largely tracking the trend of other similar Councils, with lower rates than some:



## 5. LGSCO Review of Local Government Complaints 2021/22

5.1 The LGSCO's Review of Local Government Complaints 2021/22 which was published on 27 July 2022 reports that across local government:

5.1.1 The LGSCO continues to uphold around two thirds of complaints they investigate;

5.1.2 Complaints they investigate about Education and Children's Services have the highest uphold rate (77%);

5.1.3 They are recommending more service improvements than ever before, with 1,848 recommendations focused on policies, procedures and staff training;

5.1.4 They issued 43 public interest reports about local authorities. Three quarters of which were about Education and Children's Services and Adult Care Services;

5.1.5 Compliance with their recommendations was at 99.7%.

5.1.6 Whilst local authorities adapted well to the challenging circumstances of the pandemic and the LGSCO found few issues uniquely

attributable to the pandemic, the LGSCO has found that existing concerns were exacerbated, including the capacity of complaints teams to deliver a responsive, high-quality service. In his Annual Letter the LGSCO has urged the Council to consider how it prioritises complaints, particularly in respect of capacity and visibility.

- 5.2 The LGSCO is reassured that compliance with their remedies remains high and acknowledges that while it can sometimes be challenging to achieve compliance with their recommendations, they cannot and do not want to, override the local democratic process when it comes to local authorities agreeing how to remedy fault. The LGSCO points to the important role that councillors play in this process, particularly as regards the oversight of complaints and remedies as well as service improvements and states that he has been encouraged by several examples during the year of councillors striving to achieve the best outcomes for the people they represent.
- 5.3 The review notes that while a small minority of councils failed to implement recommendations, a larger number failed to consistently complete recommendations within the timescales they had agreed. The LGSCO encourages authorities to pay close attention to this final step in the complaints process as doing what they have agreed to do on time can help to rebuild complainants' trust and confidence after things have gone wrong. Additionally, a delay in implementing service improvement recommendations can risk repeated failings.
- 5.4 The review also refers to a report that the LGSCO produced on the impact of the pandemic which concluded that overall, Councils adapted well in the challenging circumstances with few issues uniquely attributable to the pandemic.
- 5.5 The full review can be found online at <https://www.lgo.org.uk/information-centre/news/2022/jul/ombudsman-annual-review-of-complaints-the-power-to-change>.

## **6. Financial Implications**

- 6.1 Financial implications of the individual upheld decisions have been included within the body of the report and have been met from within existing budgets.

## **7. Environmental Implications**

- 7.1 None

## **8. Supporting Information**

- 8.1 None

## 9. Timescales associated with the decision and next steps

9.1 None

### Appendices

1. Appendix 1 – LGSCO Annual Letter

### Background Papers

1. None

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

Local Member(s): None

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