

Cabinet

5 September 2024

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

Recommendation

That Cabinet receives and comments on the annual review and summary of upheld complaints issued by the Local Government and Social Care Ombudsman in the financial year 2023/24.

1. Executive Summary

- 1.1 In February 2024 a new Local Government and Social Care Ombudsman (LGSCO) Amerdeep Somal was appointed. Ms Somal took over the role from Paul Najsarek, who was appointed on an interim basis on 1 April 2023 following the retirement of the previous LGSCO, Michael King.
- 1.2 Each year the LGSCO produces a review letter which contains a summary of statistics on the complaints made about the Council for the year ended 31 March. The LGSCO's letter for 2023/24 was received on 17 July and published on the LGSCO's website on 24 July 2024 and is attached at Appendix 1.
- 1.3 The LGSCO's letter focuses on three key areas: complaints upheld; compliance with Ombudsman recommendations; and satisfactory remedy provided by the organisation prior to the complaint reaching the LGSCO. The LGSCO compares these three annual statistics for each authority with similar authorities to provide an average marker of performance – with Warwickshire being compared to other county councils.
- 1.4 Between 1 April 2023 and 31 March 2024 the LGSCO made 79 decisions in respect of Warwickshire County Council. Of those 79 decisions, the LGSCO decided to undertake a detailed investigation into 21 cases and of those 21 cases the LGSCO upheld 14 complaints, not upholding the remaining 7 complaints giving the Council an upheld rate of 67% which is lower than the average for county councils (85%).
- 1.5 In the same period there was a total of 1,520 complaints logged on the Council's customer feedback system and therefore the proportion of customers that complain to the LGSCO compared to the total number of customer contacts is very small.

- 1.6 The LGSCO has started to measure the rate of upheld decisions per 100,000 residents. This new data coincides with the Office for Local Government (Oflog) including some of the LGSCO's data (including this new set) in its Local Authority Data Explorer and the LGSCO has been working with Oflog on how they include these statistics to ensure they are consistent across both sites and that updated information is published effectively.
- 1.7 In respect of Warwickshire for 2023/24 the rate of upheld decisions was 2.3 per 100,000 residents for Warwickshire, which is low compared to the average for county councils which was 4.5 per 100,000 residents. The Council is therefore performing well in comparison to local authorities of a similar nature.
- 1.8 Of the 11 complaints that the LGSCO made a compliance decision about in 2023/24, the Council implemented the recommendations to the satisfaction of the LGSCO in 100% of cases, which is positive. These 11 decisions do not necessarily relate to the 14 complaints that the LGSCO upheld in the same period, as there are often a few weeks if not months between the LGSCO issuing an upheld decision and issuing a compliance decision in relation to that complaint to give the authority time to implement the agreed actions. Therefore some of the 11 compliance decisions may relate to complaints that were upheld in the previous year (2022/23) and the Council may not have received compliance decisions in relation to all of the 14 complaints that the LGSCO upheld in 2023/24 in the same period. In terms of timeliness of implementation, in seven cases out of the 11, the remedies were implemented within the timescales agreed, in two cases the remedies were implemented but late and in two cases the remedies were not implemented but the LGSCO was satisfied. Compared to last year this is a slight improvement when in three cases remedies were implemented late. This demonstrates that measures put in place to reduce those implemented late (tighter tracking of when remedies are due and working closely with officers implementing them to ensure timescales are met) are having effect however they will be kept under review.
- 1.9 In respect of providing a satisfactory remedy before the complaint reached the LGSCO, the LGSCO found that in 0% of upheld cases the Council had provided a satisfactory remedy before the complaint reached the LGSCO. This is based on a total of 14 upheld decisions for the year 2023/24. This is compared with an average of 7% in similar organisations. The LGSCO encourages the early resolution of complaints and records this statistic to credit those that accept fault and find appropriate ways to put things right. This statistic on its own does not provide an accurate picture as many complaints are remedied by the Council to the satisfaction of the complainant and so do not proceed to become an LGSCO complaint, however, it does indicate that earlier consideration of remedies that could be offered to address any fault found at earlier stages of the complaints process should be considered. The new LGSCO Complaint Handling Code which is applicable from April 2024 and described more fully below, states at paragraph 5.9 that:

Organisations should have systems in place to ensure that a complaint can be remedied at any stage of its complaints process. Organisations should ensure that appropriate remedies can be provided at any stage of the complaints process without the need for escalation to stage 2 or the Ombudsman.

2. Financial Implications

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

3. Environmental Implications

- 3.1 None

4. Supporting Information

- 4.1 In the year 2023/24 the LGSCO received 79 complaints and enquiries and made 79 decisions in respect of Warwickshire County Council (which includes a number of decisions in respect of complaints received by the LGSCO in the previous financial year). The outcomes of those 79 decisions were as follows:

- 4.1.1 **Incomplete/invalid:** for example where the complainant withdraws the complaint = 1
- 4.1.2 **Advice given:** for example signposting to appropriate organisation = 2
- 4.1.3 **Closed after initial enquiries:** for example where an investigation is not warranted by alleged fault = 26
- 4.1.4 **Referred to the Council for local resolution:** where complaints have been made prematurely to the LGSCO prior to the Council having a chance to consider the complaint = 29
- 4.1.5 **Complaint upheld** = 14
- 4.1.6 **Complaint not upheld** = 7

Upheld Complaints

- 4.2 The upheld complaints were in relation to the following service areas:
- 4.2.1 Adult Social Care = 4
 - 4.2.2 Children & Families = 2
 - 4.2.3 Education = 8
- 4.3 These are the areas in which we would expect to see complaints upheld and reflect national trends over the year 2023/24 as can be seen in the LGSCO's [Annual Review of Local Government Complaints](#).
- 4.4 The upheld decisions broadly fall into the following categories:

Adult Social Care	Three of the complaints related to financial assessment and charging. The other complaint related to complaint handling and carrying out a social care assessment
Children & Families	One complaint related to services provided to children in care and the other related to delays in responding to complaints under the statutory children's complaints procedure
Education	Seven of the complaints related to Education Health and Care Plans and the remaining complaint related to fault in complaint handling

- 4.5 Education is the service area which has received the highest number of upheld complaints from the LGSCO and seven out of the eight upheld complaints related to Education Health and Care Plans which reflects the national situation. In its Annual Review of Local Government Complaints, the LGSCO states:

Our casework is dominated by complaints about special educational needs provision. Education complaints made up 26% of all the complaints we received in 2023–24 and were 42% of all the cases we upheld. We found fault in 92% of the education cases we investigated, and the numbers are increasing rapidly.

Complaints that were not upheld

- 4.6 The complaints that were not upheld by the LGSCO were in relation to the following service areas:

4.6.1 Adult Social Care = 4

4.6.2 Children & Families = 3

4.6.3 Environment, Planning & Transport = 2

- 4.7 These complaints fall into the following broad categories:

Adult Social Care	Two complaints related to needs assessments, one complaint related to a decision to stop direct payments and one complaint related to a review of support which resulted in a reduction of care.
Children & Families	One complaint related to action that social care had taken which the complainant disagreed with and the other related to advice and guidance provided by the Council
Environment, Planning & Transport	One complaint related to a decision of the Council not to amend a definitive map and the other related to a decision not to install a safety barrier

- 4.8 Further details about each complaint can be found by searching the decisions on the LGSCO website: [Decisions - Local Government and Social Care Ombudsman](#).

Remedying fault

- 4.9 In 2023/24 the Council agreed to take action to remedy the fault found in 13 of the 14 cases. In the remaining case no remedies were suggested by the LGSCO as the fault found did not cause significant injustice.
- 4.10 The remedies agreed included:
- 4.10.1 Apology – in nine cases
 - 4.10.2 Payments for time and trouble or distress and anxiety caused – the maximum being £1,500 which was to recognise injustice caused by the Council's poor handling of the individual's complaints, including considerable delay, mismanagement of expectations and failure to provide appropriate financial redress
 - 4.10.3 Payments to recognise missed service provision
 - 4.10.4 Action plans to make improvements
 - 4.10.5 Provision of explanations for decisions made
 - 4.10.6 Staff training

LGSCO Complaint Handling Code

- 4.11 In September 2023, the LGSCO launched a consultation on a joint Complaint Handling Code with the Housing Ombudsman. Following consultation, which this Council responded to, the two Ombudsmen decided against a joint Code and instead issued two Codes which are based on a unified set of principles. The [LGSCO Complaint Handling Code](#) was published in February 2024 and became effective from April 2024. It was issued under the LGSCO's powers to provide "guidance about good administrative practice" to organisations under section 23(12A) of the Local Government Act 1972 (the Act which establishes and gives the LGSCO's its powers). Therefore, whilst the Code is not relevant to the complaints covered by this report, the LGSCO will expect councils to have regard to it from April 2024 and following a two-year implementation period (during which further guidance and best practice will be developed). The LGSCO plans to consider the Code as part of its processes and measure councils' performance against it, from April 2026 at the earliest. The Code is not mandatory, however, local authorities will be expected to take the Code into consideration as a form of guidance when creating policies and procedures. The draft Code was taken into account when the Council's Complaints Policy was revised earlier this year (approved by Cabinet in February) as the final version of the Code was not ready at that point. Work is therefore currently being undertaken to ensure that the revised Complaints Policy and the Council's existing procedures and practices align with the completed Code.

LGSCO training programme

- 4.12 The LGSCO offers a complaint handling programme and a number of officers from the Customer Relations Team and Legal & Governance have attended the Effective Complaint Handling course over the years. In addition, the Council's Link Officer for the LGSCO (an officer in Legal & Governance who acts as a single point of contact for LGSCO enquiries and casework) has regularly attended the annual LGSCO Complaint Handler & Link Officer Conferences. The LGSCO is continuing to develop its training programme with new modules in Adult Social Care and Children's Services complaint handling becoming available soon which colleagues in those service areas as well as the Customer Relations Team will be encouraged to attend.

Visit by the new LGSCO

- 4.13 In April 2024, as part of her induction, the newly appointed LGSCO requested to visit some representative local authorities to find out more about current priorities, pressures and the view councils have of system oversight. Warwickshire was approached as one of the authorities and hosted the LGSCO and the LGSCO Head of Policy and Communications on 8 April 2024. During her visit, the LGSCO met with members of Corporate Board and officers from Education, Children & Families, Social Care & Support, Social Care & Health Commissioning, Customer Contact and Legal & Governance. A small selection of Adult Social Care providers (who the LGSCO also has jurisdiction over) also joined a session virtually, arranged by Social Care & Health Commissioning. Following the visit, the LGSCO wrote to the Council to thank us for the opportunity to meet officers and understand more about the Council's work in Warwickshire and the challenges being faced and the reality of service delivery in a Shire County.

5. Timescales associated with the decision and next steps

- 5.1 None

Appendices

Appendix 1 – LGSCO Annual Letter

Background Papers

None

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

Local Member(s): N/A as County-wide report

Other members: Chair and Party Spokes of the Resources and Fire & Rescue
Overview and Scrutiny Committee