

## Cabinet

12 September 2019

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

#### Recommendation

That 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 2018/19.

#### 1 Background

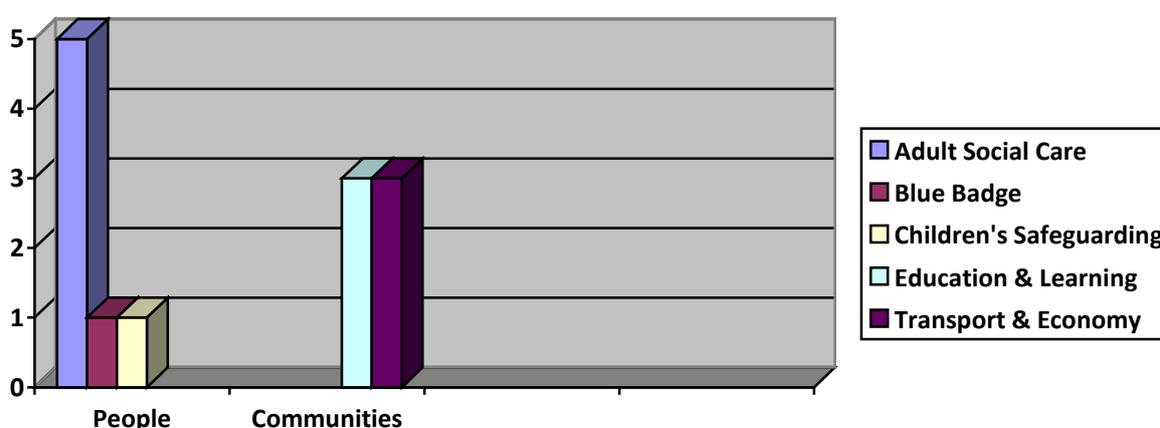
- 1.1 Each year the Local Government and Social Care Ombudsman (LGSCO) produces a review letter which contains a summary of statistics on the complaints made about the Council for the year ended 31 March.
- 1.2 This report attaches a copy of the LGSCO's letter for 2018/19 (Appendix 1) and provides more detail in relation to the themes identified by the upheld cases and action the Council is taking to target key areas (section 4).

#### 2 Upheld decisions in 2018/19 and completion of remedies

- 2.1 In the financial year 2018/19, 67 complaints and enquiries were received by the LGSCO in respect of Warwickshire County Council. The breakdown of the areas these complaints related to is shown in the Annual Letter attached at Appendix 1.
- 2.2 In this period the LGSCO made 68 decisions (which includes a number of decisions in respect of complaints received by the LGSCO in the previous year). Of these 68 decisions, the LGSCO decided that 7 complaints were incomplete or invalid, 24 were offered back for local resolution, 20 were closed after initial enquiries were made with the Council and 17 were the subject of full LGSCO investigations.
- 2.3 Of the 17 cases investigated, 13 complaints were upheld and 4 were not upheld, giving the Council an uphold rate of 76%. This is higher in percentage terms than the average for similar local authorities (64%), but is at the lower end in terms of the actual number of upheld decisions (the range for similar authorities being 9 – 36). 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 76% calculates the percentage against the number of complaints investigated (i.e. 13 upheld from 17 investigated). Whereas, the percentage of upheld decisions calculated in respect of **all** complaints referred to the LGSCO was 19% for Warwickshire (13 upheld and 55 no adverse findings) out of 68 decisions made). The range for other similar authorities is 16% - 36%.

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



2.5 The LGSCO's Review of Local Government Complaints 2018-19 which was published at the end of July 2019 reports that:

- Over a third of the complaints and enquiries they received about local authorities in England were about Education and Children's Services or Adult Social Care;
- They published 43 formal reports during the year, nearly half of which were about Education and Children's Services.
- They carried out 4,232 detailed investigations, compared with 4,020 the previous year
- They upheld 58% of the complaints they investigated, up slightly from 57%.

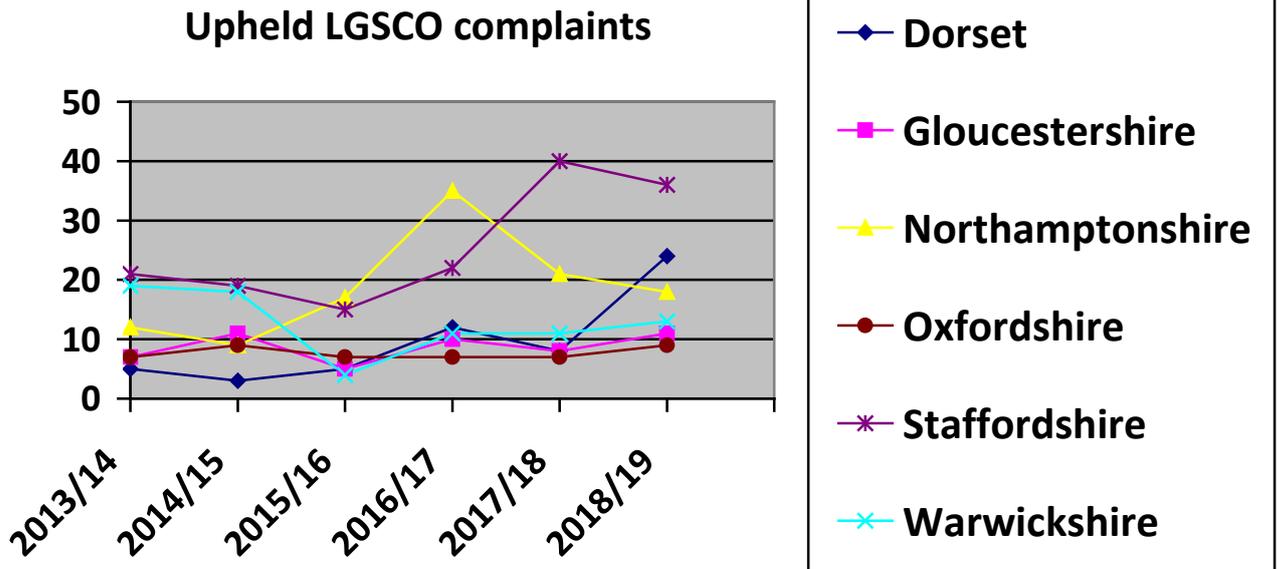
2.6 The Review also highlights the importance of recognising that when looking at data for individual councils the volume of complaints does not indicate the quality of services and that high volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being a warning sign of wider problems. The LGSCO's view is that complaint volumes should be used as the start of a conversation, rather than an absolute measure of the

corporate health of an authority and that the emphasis should be on how councils act to put fault right. To reflect this approach, the LGSCO now monitors whether recommended remedies have been complied with and records where they are satisfied that a recommendation to remedy fault has been achieved (or otherwise). This information has been included in the LGSCO's Annual Letter for the first time this year.

- 2.7 In terms of the actions that this Council took to remedy fault found by the LGSCO in 2018/19, the Council agreed to provide a financial remedy in 8 cases, totalling £9,295. With the exception of one case, these were for smaller amounts of between £100 - £750.
- 2.8 The LGSCO's Annual Letter includes a spreadsheet of compliance with agreed remedies. This spreadsheet shows that out of the 13 cases requiring remedy in 2018/19, all 13 were complied with. In 10 of those cases the Council complied with the recommendations on time and in the remaining 3 cases recommendations were complied with but later than the date suggested by the Ombudsman.
- 2.9 Officers monitor the implementation of remedies and continue to work closely with the implementing officers to encourage timely completion of remedies. Where it is not possible to do so because of events outside of our control, the Council communicates with the LGSCO to see whether the agreed remedy, or the timescale, can be reviewed.

### **3 Comparison to previous years and other local authorities**

- 3.1 By way of comparison to last year, the number of upheld complaints has increased by 2. However, no formal Reports were issued in respect of the Council by the LGSCO in 2018/19 (unlike 2017/18).
- 3.2 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 complaints. The number of upheld complaints in previous years can be seen on the graph below and includes those for other similar size County Councils as a comparison:



3.3 In terms of remedying fault, the LGSCO was satisfied in 100% of cases that the Council had successfully implemented the Ombudsman’s recommendations to remedy the complaint. In addition, in 2 out of the 13 upheld complaints (15%) Warwickshire had provided a satisfactory remedy before the complaint reached the LGSCO.

#### **4 Themes from upheld complaints and actions being taken to target key areas**

4.1 The largest number of upheld complaints in any single area were in relation to Adult Social Care where there were 6 upheld complaints (including 1 complaint about the refusal of a Blue Badge). These included complaints about:

- Care packages that had been put in place;
- Standard of care provided – 2 complaints;
- How complaints had been handled;
- Blue badge assessment and
- Care fees.

- 4.2 Other areas where the LGSCO upheld complaints were Education and Learning and Transport & Economy where there were 3 upheld complaints in each area. These included complaints about:
- Education Health and Care Plans (EHCPs) – 2 complaints;
  - Special Educational Needs and Disabilities (SEND);
  - How complaints had been dealt with (Transport & Economy) – 3 complaints;
- 4.3 Some themes identified from those complaints the LGSCO upheld in relation to Warwickshire County Council include the following:
- Communication about care packages with customers and their families and provision of information requiring improvement;
  - Standard of care provided by WCC commissioned providers;
  - How we and our commissioned providers deal with enquiries and complaints.
  - Delays in dealing with/reviewing Education Health and Care Plans and ensuring appropriate support is in place.
- 4.4 Officers have arrangements in place to ensure that the themes identified from cases involving the Council itself (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. More specifically work has been undertaken to improve the way that adult social care complaints are dealt with. Also improvements have been made to the process around Education Health and Care Plans, which is reflected in the improved performance (90% plans issued with 20 weeks) as reported in the performance report also on the Cabinet agenda.
- 4.5 A Member Development session around complaints, which included representation from the LGSCO was held with Members in May. The LGSCO gave positive feedback about the issues that were covered in the session and Warwickshire's approach to complaints generally.
- 4.6 The LGSCO issues themed Focus Reports on a regular basis providing lessons learned in respect of issues nationally that their investigations have commonly uncovered and these continue to be 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. In 2018/19 the LGSCO issued the following Focus Reports that are relevant to this Council:

- **Firm foundations: complaints about council support and advice for special guardians** – May 2018
- **Summer born admissions** – December 2018
- **Under Pressure – the impact of the changing environment on local government complaints** – December 2018 – this was circulated among senior staff and complaints officers
- **Caring about complaints: lessons from our independent care provider investigations** – March 2019 – although this focused on complaints about care providers it was shared widely within Adult Social Care and Strategic Commissioning and shared with our commissioned adult social care providers.

4.7 Colleagues from Legal Services and the Customer Relations Team are working on an action plan to ensure that the Council learns from complaints and acts pro-actively in response to LGSCO complaint outcomes, Focus Reports and Annual Reports. This will include regular contact with Assistant Directors as has previously happened.

## **5 Reporting upheld complaints**

5.1 Our performance in relation to LGSCO complaints is one of the Council's key performance indicators. For 2018/19 we had a target of no more than 12 upheld decisions (which included upheld Information Commissioner/Tribunal decisions and Judicial Reviews).

5.2 This target was exceeded in 2018/19. There were 13 upheld LGSCO complaints, 2 upheld Information Commissioner decisions and 1 upheld Information Tribunal decision. There were no adverse Judicial Review decisions.

5.3 For 2019/20 the target has been changed and now measures the number of upheld LGSCO complaints. It no longer incorporates other adverse decisions (Judicial Reviews, ICO and Information Tribunal decisions) as these are captured elsewhere in the performance reporting arrangements. An ambitious target has been set at 9 adverse LGSCO decisions for 2019/20.

5.4 As at the end of Q1 there has been one upheld decision in the financial year 2019/20. In addition to the number of upheld complaints, in 2019/20 the percentage of remedies completed to the satisfaction of the LGSCO is also

being reported, with the target being 100%. This target is being met as at the end of Q1.

- 5.5 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. There were no such reports issued in 018/19.
- 5.6 Separately, where there are recommendations of ex gratia payments to be made above £1000, there is a requirement under the Constitution for approval from the Regulatory Committee. There was one case falling into this category in 2018/19.

## **6 Looking to the future**

- 6.1 In his Annual Letter the LGSCO refers to the 3 cases where the Council implemented remedies late and has asked us to reflect on the way we implement our remedies with a view to reducing any avoidable delay in the process. Those related to Education and Children's Services, Adult Care Services and Highways and Transport.
- 6.2 Officers in Legal Services who coordinate responses to the LGSCO and assist with the agreement of remedies and report on the implementation of them will continue to work with implementing officers across the Council to improve our practices in this area. In addition, as mentioned above, an action plan is being developed with key officers across the Council to ensure that the Council continues to learn from its complaints.

## **7 Financial Implications**

- 7.1 There are no direct financial implications as a result of the report. If remedies are required as a result of LGSCO decisions, including financial remedies, these are managed from within the existing resources of the relevant service.

## **Appendices**

Appendix 1 – LGSCO Annual Letter

## **Background papers**

None

|                    | <b>Name</b>   | <b>Contact Information</b>  |
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The report was circulated to the following members prior to publication:

Local Members: None

Other members: Kaur, Warwick, Singh Birdi, O'Rourke, Boad, Chattaway, Roodhouse and Chilvers.

Local Government &  
Social Care  
**OMBUDSMAN**

24 July 2019

*By email*

Monica Fogarty  
Chief Executive  
Warwickshire County Council

Dear Ms Fogarty

**Annual Review letter 2019**

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2019. The enclosed tables present the number of complaints and enquiries received about your authority, the decisions we made, and your authority's compliance with recommendations during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

**Complaint statistics**

As ever, I would stress that the number of complaints, taken alone, is not necessarily a reliable indicator of an authority's performance. The volume of complaints should be considered alongside the uphold rate (how often we found fault when we investigated a complaint), and alongside statistics that indicate your authority's willingness to accept fault and put things right when they go wrong. We also provide a figure for the number of cases where your authority provided a satisfactory remedy before the complaint reached us, and new statistics about your authority's compliance with recommendations we have made; both of which offer a more comprehensive and insightful view of your authority's approach to complaint handling.

The new statistics on compliance are the result of a series of changes we have made to how we make and monitor our recommendations to remedy the fault we find. Our recommendations are specific and often include a time-frame for completion, allowing us to follow up with authorities and seek evidence that recommendations have been implemented. These changes mean we can provide these new statistics about your authority's compliance with our recommendations.

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 your 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 our annual review of local government complaints. For the first time, this includes data on authorities' compliance with our recommendations. This collated data further aids the scrutiny of local services and we encourage you to share learning from the report, which highlights key cases we have investigated during the year.

We now more closely monitor authorities' compliance with the recommendations we make to remedy the fault we find, and it is pleasing that we recorded our satisfaction with your Council's compliance in 13 cases. However, we were disappointed that in three of those cases, remedies were not completed within the agreed timescales and we had to chase the Council to achieve compliance. While I appreciate the pressures local authorities are under, delays in implementing remedies will naturally add to complainants' injustice and prevents my office from conducting its work in an efficient manner. I would ask the Council to reflect on the way it implements our remedies, with a view to reducing any avoidable delay in the process.

### **New interactive data map**

In recent years we have been taking steps to move away from a simplistic focus on complaint volumes and instead focus on the lessons learned and the wider improvements we can achieve through our recommendations to improve services for the many. Our ambition is outlined in our [corporate strategy 2018-21](#) and commits us to publishing the outcomes of our investigations and the occasions our recommendations result in improvements for local services.

The result of this work is the launch of an interactive map of council performance on our website later this month. [Your Council's Performance](#) shows annual performance data for all councils in England, with links to our published decision statements, public interest reports, annual letters and information about service improvements that have been agreed by each council. It also highlights those instances where your authority offered a suitable remedy to resolve a complaint before the matter came to us, and your authority's compliance with the recommendations we have made to remedy complaints.

The intention of this new tool is to place a focus on your authority's compliance with investigations. It is a useful snapshot of the service improvement recommendations your authority has agreed to. It also highlights the wider outcomes of our investigations to the public, advocacy and advice organisations, and others who have a role in holding local councils to account.

I hope you, and colleagues, find the map a useful addition to the data we publish. We are the first UK public sector ombudsman scheme to provide compliance data in such a way and believe the launch of this innovative work will lead to improved scrutiny of councils as well as providing increased recognition to the improvements councils have agreed to make following our interventions.

## 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 2018-19 we delivered 71 courses, training more than 900 people, including our first 'open courses' in Effective Complaint Handling for local authorities. Due to their popularity we are running six more open courses for local authorities in 2019-20, in York, Manchester, Coventry and London. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

Finally, I am conscious of the resource pressures that many authorities are working within, and which are often the context for the problems that we investigate. In response to that situation we have published a significant piece of research this year looking at some of the common issues we are finding as a result of change and budget constraints. Called, [Under Pressure](#), this report provides a contribution to the debate about how local government can navigate the unprecedented changes affecting the sector. I commend this to you, along with our revised guidance on [Good Administrative Practice](#). I hope that together these are a timely reminder of the value of getting the basics right at a time of great change.

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:** 31/03/2019

For further information on how to interpret our statistics, please visit our [website](#)

## 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 |
|---------------------|------------------|------------------------------|-----------------------------------|----------------------|------------------------|---------|--------------------------|-------|-------|
| 25                  | 1                | 4                            | 25                                | 3                    | 9                      | 0       | 0                        | 0     | 67    |

## 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 |
| 7                     | 0            | 24                                 | 20                             | 4                       | 13     | 76              | 68    |

**Note:** The uphold rate shows how often we found evidence of fault. It is expressed as a percentage of the total number of detailed investigations we completed.

## Satisfactory remedy provided by authority

| Upheld cases where the authority had provided a satisfactory remedy before the complaint reached the Ombudsman | % of upheld cases |
|--|-------------------|
| 2  | 15                |

**Note:** These are the cases in which we decided that, while the authority did get things wrong, it offered a satisfactory way to resolve it before the complaint came to us.

## Compliance with Ombudsman recommendations

| Complaints where compliance with the recommended remedy was recorded during the year*   | Complaints where the authority complied with our recommendations on-time | Complaints where the authority complied with our recommendations late | Complaints where the authority has not complied with our recommendations |                          |
|---|--|---|--|--------------------------|
| 13  | 10   | 3   | 0  | <b>Number</b>            |
|   | 100%   |   | -  | <b>Compliance rate**</b> |
| <p><b>Notes:</b></p> <p>* This is the number of complaints where we have recorded a response (or failure to respond) to our recommendation for a remedy during the reporting year. This includes complaints that may have been decided in the preceding year but where the data for compliance falls within the current reporting year.</p> <p>** The compliance rate is based on the number of complaints where the authority has provided evidence of their compliance with our recommendations to remedy a fault. This includes instances where an authority has accepted and implemented our recommendation but provided late evidence of that.</p> |  |   |  |                          |