

Standards Committee

22 October 2018

Local Government & Social Care Ombudsman – Annual Review 2017/18

Summary of report:

The report seeks to provide Members of the Committee with details relating to the role of the Local Government & Social Care Ombudsman, provide information on the number and range of complaints referred by the Ombudsman to the Council during the financial year 2017/18, and to submit for Committee's consideration the Ombudsman's annual letter for 2017/18, which is appended.

Background papers:

None.

Recommendation:

1. To note the content of the report

1.0 Background

The Local Government & Social Care Ombudsman (shortened in this report to LGSCO or the Ombudsman) service investigates complaints about the range of local authority functions and services. The Ombudsman can also investigate complaints about registered adult social care providers about care funded and arranged privately.

The Ombudsman can investigate complaints about how the council has done something, looking at the council's administrative practice, and at how the service has acted in the matter concerned but cannot question what a council has done simply because someone does not agree with the outcome.

Procedure

In recent years the LGSCO has streamlined its operations in order to focus its resources on those complaints where it believes can make a difference and where it is clear that the complaint has already exhausted local complaints procedures.

Complaints received by the LGSCO are considered by an assessment team, who undertake checks to ensure that the complaint has been considered to a conclusion at a local level. Where it clear to the LGSCO that a complaint has not been submitted locally, the complainant will generally be advised to pursue the matter through the council's procedures first: in those circumstances the LGSCO generally will not forward details to the council. In cases where it may not be clear whether a

matter has already been considered by the council, the LGSCO will seek information from the council in order to assess whether the Ombudsman should investigate the complaint at that stage; the Ombudsman will expect a response to these assessment stage enquiries very promptly, normally within 5 working days.

Other complaints may be turned away by the LGSCO because they fall outside of the remit of the Ombudsman, or because the complainant may have other remedies (e.g. a tribunal, or formal appeal procedure); or because the complaint may have been submitted too late to be considered (normally over 12 months after the incident or issue in question arose – though the LGSCO has discretion to investigate, if there are reasonable grounds).

In some cases, too, the Ombudsman will be able to reach a decision on a complaint based on information provided by the complainant, and from information available on the website, including for example the council website using, for instance, the CMIS system for committee business or the planning portal. Likewise, the Ombudsman may use information provided by the council at the assessment stage to enable it to reach a decision on a complaint, without the need to make further detailed enquiries of the council.

In a number of cases, though, where the LGSCO decides that it is appropriate to investigate a complaint, councils will be sent detailed enquiries, and are expected to respond to those enquiries within a set timescale, normally of 28 calendar days. The Ombudsman may ask for specific documents, and may require the council to respond in detail to the complaint, and to the investigator's specific questions on the matter. Where required, the council must give the Ombudsman access to files and other information relevant to the complaint, and to officers and Members, including ex-employees, former contractors etc. who have had an involvement in the matter. In most cases, the LGSCO will conclude their investigations or enquiries with a decision notice which is sent to the complainant and the council, and then (in most cases) added three months later to the Ombudsman's website. Decision notices are available, identified to the relevant council but with personal details anonymised, on the Ombudsman's website.

The LGSCO may on occasion issue a formal report of maladministration. In recent years the LGSCO has issued fewer such reports than in the past, and in June 2018 set out a set of six criteria to assist in deciding when to issue a report, including where there are recurrent faults, where there has been 'significant fault, in justice or remedy' by scale or the number of people affected, non-compliance with an LGSCO recommendation, a high volume of complaints about one subject, or 'a significant topical issue', or in case of 'systemic problems and/or wider lessons'. In cases where a formal report is issued, it must be considered by the council, as set out in the council's constitution.

Further details on how the LGSCO works can be found in the Manual for Councils issued to assist particularly in respect of the day to day working relationship between Ombudsman staff and each council's designated 'link officer'. This manual is available on the Ombudsman's website via the link www.lgo.org.uk/link-officers.

Statistics

The letter includes statistics relating to:

- complaints *received by the LGSCO* relating to this council during the year 2017/18, and also
- *decisions made by the LGSCO* during the year 2017/18 in relation to complaints about this council.

Details are attached.

Please note that these statistics include enquiries where the LGSCO has directed the complainant back to the council or elsewhere without any exchange between the LGSCO and council officers on the matter. In those cases, the council has no knowledge of the subject matter of the complaint raised with the Ombudsman beyond the broad category e.g. Housing, Highways & Transport. It is likely that many of these complaints will have been received locally as a result of guidance and advice provided by the Ombudsman to complainants.

The Committee will note that the 72 complaints *received by the LGSCO* relating to Walsall Council in 2017/18 were categorised as follows:

Adult Care Services	17
Benefits & Tax	7
Corporate and Other Services	7
Education and Children's Services	19
Environment Services	4
Highways & Transport	5
Housing	3
Planning and Development	10
Other	0

The total of 72 represents a slight decrease from the figure of 79 received in 2016/17 – however the 2016/17 figures included 9 complaints about a single matter.

During 2017/18 the Ombudsman decided or determined 71 complaints relating to Walsall Council. These were categorised as follows:

Incomplete or Invalid	5
Advice Given	1
Referred back for Local Resolution	38
Closed After Initial Enquiries	18
Detailed Investigations – Not Upheld	3
Detailed Investigations - Upheld	6
Detailed Investigations – Uphold Rate	67%

The six complaints categorised as 'Upheld' related to adult care services (2), planning & development, environmental services, highways & transport and education & children's services.

The Annual Letter indicates that in future years the Ombudsman intends to publish a greater range of information, including information about the outcome of their investigations and occasions where LGSCO recommendations have resulted in improvements to local services. In addition the Ombudsman is currently considering how to report further on the implementation of remedies set out in decision notices.

Committee members will note that comparative figures relating to neighbouring authorities are attached. These details are available, for all councils, on the LGSCO's website www.lgo.org.uk.

Good Practice

Committee is asked to note that the Ombudsman also has an important role in identifying, from the complaints that it receives from citizens and service users across the country, and from its interaction with councils, particular issues and areas of concern which it shares with councils generally via bulletins, news releases and in particular specific focus reports.

In 2017/18, the LGSCO issued focus reports in relation to mental capacity assessments (July 2017), refuse and recycling collections (August 2017), education health & care plans (October 2017), and the use of bed & breakfast accommodation (December 2017). These, and other focus reports published in previous years and in the current year, are available on the LGSCO's website www.lgo.org.uk.

2.0 Resource and Legal Considerations:

There are no specific financial implications arising from this report.

In some cases, the local settlement of particular complaints may include a financial element, for the complainant's 'time and trouble' in pursuing the matter, and in appropriate cases the payment of sums reflecting the impact of the council's failings on the complainant.

The Ombudsman service operates in accordance with provisions in the Local Government Act 1974, as amended by subsequent legislation. As noted above, the LGSCO has issued a new manual for councils setting out operational matters relating to its procedures available on its website.

3.0 Performance and Risk Management issues:

The Ombudsman's annual letter and annual report provides details relating to the number of complaints received, and the outcome of complaints. These details are also published on the Ombudsman's website www.lgo.org.uk.

The annual letter no longer provides figures for the average time taken to provide a response to the Ombudsman's enquiries.

4.0 Equality Implications:

Details relating to the Ombudsman service are available on the council website and in the council's own complaints leaflets. The Ombudsman no longer produces its own complaint leaflets; rather details are set out on its website.

5.0 Consultation:

5.1 There is no requirement to consult on this report.

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West Midlands Metropolitan Districts - complaints and enquiries received by the LGO (2017/18)
2016/17 figures are shown in brackets

	Adult care services	Benefits and tax	Corporate & other services	Education & Children's services	Environment services	Highways & Transport	Housing	Planning & Development	Other	TOTAL
Birmingham	51 (44)	97 (114)	18 (21)	49 (52)	93 (73)	29 (38)	102 (83)	13 (22)	3 (5)	455 (452)
Coventry	8 (13)	18 (11)	11 (10)	29 (17)	36 (17)	12 (16)	12 (14)	6 (7)	4 (0)	136 (105)
Dudley	18 (15)	11 (5)	6 (2)	14 (16)	7 (10)	3 (5)	12 (10)	4 (4)	1 (0)	76 (67)
Sandwell	9 (19)	17 (17)	4 (7)	27 (21)	7 (12)	7 (2)	18 (19)	2 (5)	1 (1)	92 (103)
Solihull	8 (9)	4 (3)	4 (4)	10 (5)	5 (6)	6 (3)	3 (5)	8 (6)	0 (0)	48 (41)
WALSALL	17 (9)	7 (8)	7 (3)	19 (21)	4 (13)	5 (2)	3 (5)	10 (16)	0 (2)	72 (79)
Wolverhampton	16 (11)	10 (4)	4 (4)	14 (18)	10 (7)	4 (5)	7 (7)	7 (1)	0 (1)	72 (58)

West Midlands Metropolitan Districts – complaints determined by the Ombudsman (2017/18)
2016/17 figures are shown in brackets

	Invalid or incomplete	Advice given	Referred back for local resolution	Closed after initial enquiries	Not upheld	Upheld	Upheld rate (%)	TOTAL
Birmingham	21 (18)	34 (31)	221 (210)	93 (105)	29 (38)	43 (63)	60 (62)	441 (465)
Coventry	8 (1)	2 (1)	66 (46)	27 (32)	6 (10)	20 (15)	77 (60)	129 (105)
Dudley	3 (1)	4 (3)	48 (38)	10 (9)	4 (8)	6 (9)	60 (53)	75 (68)
Sandwell	6 (7)	8 (5)	39 (53)	19 (21)	7 (7)	11 (11)	61 (61)	90 (104)
Solihull	3 (3)	2 (1)	16 (16)	16 (15)	4 (3)	3 (8)	43 (73)	44 (46)
WALSALL	5 (6)	1 (0)	38 (32)	18 (17)	3 (14)	6 (14)	67 (50)	71 (83)
Wolverhampton	5 (2)	1 (4)	30 (25)	20 (13)	5 (7)	4 (10)	44 (59)	65 (61)

Local Government & Social Care OMBUDSMAN

18 July 2018

By email

Helen Paterson
Chief Executive
Walsall Metropolitan Borough Council

Dear Helen Paterson,

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.

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 therefore 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 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.

Yours sincerely,



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

Local Authority Report: Walsall Metropolitan Borough 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
17	7	7	19	4	5	3	10	0	72

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
5	1	38	18	3	6	67%	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
3	3