

AUDIT & GOVERNANCE COMMITTEE

20 SEPTEMBER 2023

LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN – ANNUAL REVIEW REPORT

Report by Anita Bradley, Monitoring Officer

RECOMMENDATION

- 1. The Committee is RECOMMENDED to receive and comment on the Local Government and Social Care Ombudsman’s Annual Review of Oxfordshire County Council for 2022/23, and the work undertaken by the Council regarding its handling of complaints.**

Introduction

- 2. Each year, the Local Government and Social Care Ombudsman (LGSCO) issues an Annual Review Report about each council. This relates to the complaints made to the LGSCO about the Council in the previous financial year. This report updates the Committee on this area of governance for the year 2022/23, reflecting on those complaints that were considered by the LGSCO up to 31 March 2023**

Purpose of the LGSCO’s Annual Letter

- 3. Under the Local Government Act 1974, the LGSCO has two main statutory functions:**
 - To investigate complaints against councils (and some other authorities)**
 - To provide advice and guidance on good administrative practice**
- 4. The LGSCO records the following categories of information – which can be found contained within the Annual Review Letter:**
 - a) Complaints and enquiries received - by subject area,**

- b) Decisions made (upheld, not upheld, advice given, closed after initial enquiries, incomplete/invalid and premature)
5. The purpose of the Annual Letter is to reflect to councils the number and nature of the LGSCO's dealings with complaints about that authority. The Annual Letter is at **Annex 1**.
 6. In short, the Council saw an increase in the number of complaints upheld in 2022/23; 30 compared to 14 upheld in 2021/22. However, in 2022/23 the LGSCO changed their investigation processes, which has contributed towards an increase in the average uphold rate across all complaints.
 7. Whilst the LGSCO's approach will have increased the number of upheld cases, the Council takes very seriously all complaints, and significant work is being undertaken to improve the Council's own complaint handling process, across all services.
 8. 91% of Oxfordshire cases considered by the LGSCO were upheld, compared to a national average of 80% in similar authorities (County Councils). These statistics are based on a total of 33 full investigations into complaints about the Council, carried out by the LGSCO for the period between 1 April 2022 to 31 March 2023.
 9. In **100%** of cases upheld, the LGSCO were satisfied the Council had successfully implemented their recommendations. This is in line with an average of 100% in similar authorities.
 10. In **7%** of upheld cases the LGSCO found the Council had provided a satisfactory remedy before the complaint reached the Ombudsman. This relates to 2 satisfactory remedy decisions out of a total of 30 upheld decisions for the period between 1 April 2022 to 31 March 2023. This compares to an average of **6%** in similar authorities.
 11. Of the 28 upheld complaints where remedy was proposed by the LGSCO, 5 were recorded as *remedy completed late*. This is due to the Council not meeting the agreed completion deadlines.
 12. This report explores these findings in more detail and sets them in the national context for county councils.

Summary of Complaints and enquiries received by the LGSCO

13. A total of 102 complaints were received by the LGSCO against the Council. The LGSCO records the subjects of county council complaints as follows – with Oxfordshire County Council's numbers for 2022/23.

By LGSCO category	Number of complaints received by the LGSCO
Adult care services	16
Education and children's services	76
Highways and transport	7
Corporate and other services	2
Other	1

14. The Council's Children's services received the highest number of complaints with most relating to special educational needs and disability (SEND) and the handling and issuing of Education Health and Care Plans (EHCP).

15. The main themes of SEND LGSCO complaints have centred around:

- a) Poor communication from the Special Educational Needs & Disabilities (SEND) Service.
- b) Delays to amending Education, Health & Care (EHC) Plans following the Annual Review.
- c) Delays in securing appropriate specialist educational provision

16. To address these issues the SEND service has implemented the following improvement and remedial actions:

- a) There is now in place an established service improvement regime which has arisen from a strategic overhaul of the issues with meeting statutory timeframes within the Education Health and Care Needs Assessment and Review process.
- b) The service has used Team Meetings to deliver training that highlights the duty under Section 19 of the Education Act CA10 1996 (Section 19 of the Act). Section 19 of the Act states the local authorities shall make arrangements for the provision of suitable education at school, or otherwise than at school, for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.
- c) New standard operating procedures to address section 19 of the Education Act, have been co-produced by all teams with the involvement of children not accessing education, and these have been rolled out within the department.

17. The SEN Casework Team has also been reconfigured and expanded with the addition of a Tribunal, Resolution and Complaints Team. This team has been created to deal with complex cases, thereby ensuring that there are manageable caseloads with increased focus on targeted review work.

- a) An EHC Assessment Monitoring Tracker has been introduced, managed by the Service Manager, Senior Leads and Team Managers. The tracker gives managers and officers careful oversight of all new assessments, and this has resulted in an increase in completion rates of EHC Plans within statutory timescales. Evidence of this can be seen in the performance of the team and completion of EHC Plans within the statutory timescales improving from 4% to 43% (rolling year January to July 2023).
- b) The SEN Team is currently being reconfigured with additional staffing capacity and the new workforce will be in place at the beginning of the Autumn Term 2023. This will support SEN Officers in undertaking Annual Reviews within timescales.
- c) An Annual Review Monitoring Tracker and performance data set is being built, similar to that for the reporting of the completion of EHCP 20-week process. This will be implemented in the Autumn Term 2023. This will monitor the timeliness and completion of EHC Assessment and Review Plan processes.
- d) A recommendation from the LGSCO investigation, which the Council agreed to undertake was that the service would review its procedures when consulting for new education placements for children with EHC Plans to ensure its staff are consulting early enough and with sufficient providers to prevent unnecessary delays in children accessing a new education placement.

Decisions made by LGSCO

- 18. The LGSCO carried out 33 investigations, 30 of which were upheld.
- 19. The cases upheld are summarised below in **Annex 2** with an indication of the outcomes in each case. All the remedies have been implemented. Where a financial remedy was recommended by the LGSCO, this was in accordance with its own published guidance on the circumstances in which a financial remedy may be appropriate (e.g. for time and trouble, delay or distress).

Public Report issued by the LGSCO

- 20. During the year, the LGSCO issued a public report about the Council's failure to provide suitable education to a boy with a diagnosis of autism spectrum disorder (ASD) who was unable to attend school due to anxiety. Their investigation found the Council did not check what education was on offer and did not review whether the school could meet the boy's needs. The Council acted upon this finding to remedy the injustice caused, and the Ombudsman has reported in his annual review that he is pleased to note satisfaction with the Council's actions in this case.

Supporting complaint and service improvement

21. The Ombudsman recognises that complaints offer organisations a rich source of intelligence and insight that has the potential to be transformational. These insights can indicate a problem with a specific area of service delivery or, more broadly, provide a perspective on an organisation's culture and ability to learn. To realise the potential that complaints have to support service improvements, organisations need to have the fundamentals of complaint handling in place. To support Council's to do so, the LGSCO have continued their work with the Housing Ombudsman Service to develop a joint complaint handling code that will provide a standard for organisations to work to. The LGSCO will consult on the code and its implications prior to launch.

The Overall context of complaints received by the Council

22. The Council received **657** complaints during 2022/23. These are broken down as follows, set against the numbers for recent years.

Type	2022/23	2021/22	2020/21
Corporate (i.e. non-social care)	379	321	197
Adults Social Care Complaints	134	117	108
Children's Social Care Complaints	144	140	150
	657	578	455

Actions taken by the Council

23. The outcomes of the LGSCO's 2021/22 review indicated that the Council could achieve improvements to its own approach to complaints, and the Council reported to Committee as part of its 2021/22 LGSCO Annual Report its action plan. An update on these actions is reported below:

Action	Update
a) Further improve visibility for the Council's senior leadership team on issues, outcomes, and learning.	<ul style="list-style-type: none"> During 2022/23, the Council's Business Management and Monitoring Report (BMMR) was expanded to include a dedicated section on the Council's Complaints performance. This is reported monthly to Strategic Leadership and the Council Management Team. The BMMR is also presented to Cabinet.
b) Provide additional training on best practice complaints-	<ul style="list-style-type: none"> The Council now offers an instructor led 1 day course to

<p>handling for staff and managers investigating complaints, using upheld cases both from this authority and nationally, as a point of learning when trying to resolve complaints through the Councils own complaints processes.</p>	<p>provide participants with the crucial skills and confidence to improve complaint handling of customer complaints, with the goal of reaching a satisfactory solution.</p> <ul style="list-style-type: none"> • In addition, the Customer Feedback team are working towards providing training to staff on best practice complaints handling, which will be provided by the complaints officers. The team have initiated this with Children's Services offering training for stage 1 responding managers starting in September 2023 and will then roll this out further across other services. • The team are dedicated to working with the services, to ensure best practice complaints handling.
<p>c) Give early consideration to offering a remedy either as part of the Council's own complaints process where fault has been identified, or when being invited to do so by the LGSCO at the outset of their enquiries.</p>	<ul style="list-style-type: none"> • The Customer Feedback team leader has been giving early consideration of remedy in line with the LGSCO remedy guidance. This particularly relates to issues around delays, time, trouble, and distress around investigations that have been delayed in the process. Services have also been identifying remedy as part of the complaint process with support from the Customer Feedback Team in line with the LGSCO guidance on remedies. • Early consideration is being given to remedy when identified in the complaints process and when identified or invited to do so by the LGSCO – which is evident in the LGSCO annual statistics as being 100% compliant and satisfied that the Council had implemented the recommendations from the LGSCO.

<p>d) Improve communication between complaints officers and services to reduce delays in concluding complaints investigations.</p>	<ul style="list-style-type: none"> • The customer feedback team have been building relationships with the wider services and providing support to managers to complete the complaint responses within timeframes and reducing delays in concluding investigations.
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24. Other actions taken in 2022/23:

- a) The Customer Feedback team introduced a 'Management of Unreasonable Customer Behaviour Policy' to have an established protocol for dealing with such situations and to safeguard the Council's own staff from inappropriate behaviour.
- b) The focus upon complaints resolution has been the subject of several conversations at the Strategic Leadership Team (SLT) and the Council Management Team (CMT). It has also featured in corporate communications, aimed at highlighting the importance of dealing with complaints in a timely and effective manner.
- c) There has been enhanced focus between the Customer Feedback team and various Directorates including Children's Services and Adult Social Care, to raise the profile and enhance working relationship between teams. This has resulted in reduction in outstanding cases and resolution times.

Areas of focus for 2023/24

25. The outcomes of the LGSCO's report indicate that there is still work to do in continuing to make improvements to the Council's own approach to complaints. The Council will have a renewed focus in this area and during 2023/24 will work to:

- a) Develop and implement a new Complaints Policy. The Policy will be launched in Quarter 2 and will involve a series of communications to promote the best practice approach across the Council.
- b) Introduce a quarterly 'Quality Assurance' approach with Directors and Heads of Service across Adult Social Care and Children's service to quality check a sample of complaints responses.
- c) Provide enhanced reporting on complaints in the Business Management and Monitoring Report to ensure learning from complaints corporately.
- d) Continue to focus on providing training, improving communication and profile of complaints activity across the Council

Conclusion

26. It is pleasing to see the Council has recorded a 100% compliance with Ombudsman recommendations for 2022/23.
27. Whilst the LGSCO's changes to their investigation will have contributed towards an increase in the average uphold rate across all complaints, the number of upheld complaints recorded against Oxfordshire County Council remains higher than the national average for similar authorities.
28. However, the Council is confident that the learning taken from the LGSCO's findings, and actions implemented during 2022/23 and into 2023/24 will ensure improved service provision and further establish the improvements in the Council's complaint handling and resolution processes.

Financial implications

29. This report sets out the Local Government and Social Care Ombudsman's Annual Review of Oxfordshire County Council for 2022/23, and the work undertaken by the Council regarding its handling of complaints. While there are no financial implications arising directly from the report, the council's budget for 2023/24 includes on-going funding of £0.5m for additional capacity in the SEN team. Where there are any more indirect service impacts these are incorporated into the forecast position for both the council and High Needs Dedicated Schools' Grant set out in the Business Management & Monitoring Reports to Cabinet.
30. Comments checked by: Kathy Wilcox, Head of Corporate Finance

Legal Implications

31. There are no legal implications arising directly from the report.
32. Comments checked by: Anita Bradley, Director of Law & Governance and Monitoring Officer

Staff Implications

33. There are no staff implications arising directly from the report.

Anita Bradley

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September 2023

Annex 2 – Cases Upheld by the Local Government and Social Care Ombudsman

	Nature of decision	Remedy
1.	<p><i>Summary</i></p> <p>21007422</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	<p>Written apologies, financial redress of £1,250 for avoidable distress/time and trouble, financial redress of £1,800 for loss of service, provide training/guidance to staff.</p>
2.	<p><i>Summary</i></p> <p>21007684</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	<p>Financial redress of £200 for avoidable distress/time and trouble, financial redress of £650 for loss of service, reminders/guidance to staff.</p>
3	<p><i>Summary</i></p> <p>21007767</p> <p>Communication on, and handling of the process for dealing with placements with family members.</p>	<p>Written apology, financial redress of £3,000 for avoidable distress/time and trouble, provide training/guidance to staff.</p>
4.	<p><i>Summary</i></p> <p>21008862</p> <p>Education provision.</p>	<p>Financial redress of £300 in recognition of avoidable distress/time and trouble, review of policy/procedure.</p>

	Nature of decision	Remedy
5.	<p><i>Summary</i></p> <p>21009141</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	<p>Written apology, financial redress of £1,800 in recognition of avoidable distress/time and trouble, financial redress of £4,800 in for loss of service, reminders to staff.</p>
6.	<p><i>Summary</i></p> <p>21009723</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	<p>Written apology, financial redress of £1,000 for avoidable distress/time and trouble, financial redress of £6,200 for loss of service, provide training/guidance to staff, review of policy/procedure, consider report at Cabinet and confirm actions to be taken.</p>
7.	<p><i>Summary</i></p> <p>21010344</p> <p>Delays with provision and handling of support to foster parents.</p>	<p>Written apology, financial redress of £600 for avoidable distress/time and trouble, provide training/guidance to staff.</p>
8.	<p><i>Summary</i></p> <p>21010769</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	<p>Written apology, financial reimbursement of private tuition costs incurred by parent, financial redress of £1,000 for avoidable distress/time and trouble, financial redress of £2,400 for loss of service, review of policy/procedure.</p>
9.	<p><i>Summary</i></p> <p>21013539</p>	<p>Financial redress of £1,350 for avoidable distress/time and trouble.</p>

	Nature of decision	Remedy
	Education provision.	
10.	<p><i>Summary</i></p> <p>21013838</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	Written apology, provide training/guidance to staff.
11.	<p><i>Summary</i></p> <p>21014264</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	Written apology, financial redress of £1750 for avoidable distress/time and trouble, review of policy/procedure, provide training/guidance to staff.
12.	<p><i>Summary</i></p> <p>21016948</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	Written apology, financial redress of £250 for avoidable distress/time and trouble, financial redress of £1,500 for loss of service.
13.	<p><i>Summary</i></p> <p>21017421</p> <p>Delays in complaints process.</p>	Financial redress of £200 for avoidable distress/time and trouble, complete a stage two investigation and provide written outcome,
14.	<p><i>Summary</i></p> <p>21017982</p>	Review of policy/procedure, correct records.

	Nature of decision	Remedy
	Safeguarding.	
15.	<p><i>Summary</i></p> <p>22000090</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	<p>Written apology, provide services to person affected, financial redress of £1,800 for loss of service, review of procedure/policy, financial redress of £500 for avoidable distress/time and trouble, provide training/guidance to staff.</p>
16.	<p><i>Summary</i></p> <p>22000103</p> <p>Delays in complaints process.</p>	<p>Financial redress of £150 to reflect delays so far, complete a stage two investigation and provide written outcome.</p>
17.	<p><i>Summary</i></p> <p>22000331</p> <p>Delays in complaints process.</p>	<p>Financial redress of £300 for avoidable distress/time and trouble.</p>
18.	<p><i>Summary</i></p> <p>22000739</p> <p>Education provision.</p>	<p>Written apology, financial redress of £900 for loss of service, financial redress of £2,250 for quantifiable Loss, financial redress of £300 for avoidable distress/time and trouble, Provide training/guidance to staff.</p>
19.	<p><i>Summary</i></p> <p>22000999</p>	<p>Written apology, financial redress of £300 for avoidable distress/time and trouble, financial redress of £2,175 for loss of service.</p>

	Nature of decision	Remedy
	Handling of the process of issuing Education, Health Care Plan.	
20.	<i>Summary</i> 22002631 Delays in complaints process.	Written apology, financial redress of £300 for avoidable distress/time and trouble
21.	<i>Summary</i> 22002681 Delay in response to complaint.	Written apology.
22.	<i>Summary</i> 22004358 Handling of the process of issuing Education, Health Care Plan.	Financial redress of £300 for avoidable distress/time and trouble.
23.	<i>Summary</i> 22005499 Delays in complaints process.	Financial redress of £200 for avoidable distress/time and trouble, complete complaints process.
24.	<i>Summary</i> 22006245	No further action, remedied through Council's complaint processes.

	Nature of decision	Remedy
	Safeguarding referral.	
25.	<p><i>Summary</i></p> <p>22006291</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	Written apology, financial redress of £300 for avoidable distress/time and trouble, financial redress of £1800 for lost of service, provide training/guidance to staff, review processes.
26.	<p><i>Summary</i></p> <p>22006612</p> <p>Delays in complaints process.</p>	Financial redress of £300 for avoidable distress/time and trouble and complete complaints process.
27.	<p><i>Summary</i></p> <p>22007855</p> <p>Handling of the process of issuing Education, Health Care Plan. Delays in complaints process.</p>	Financial redress of £100 for avoidable distress/time and trouble, financial redress of £500 for loss of service.
28.	<p><i>Summary</i></p> <p>22009582</p> <p>Handling of the process of issuing Education, Health Care Plan.</p>	No further action, already remedied by the Council.
29.	<p><i>Summary</i></p> <p>22009852</p>	Written apology, financial redress of £400 for avoidable distress/time and trouble.

	Nature of decision	Remedy
	Handling of the process of issuing Education, Health Care Plan.	
30.	<i>Summary</i> 22010697 Delays in complaints process.	Financial redress of £500 for avoidable distress/time and trouble, complete complaints process.