

**Divisions Affected -**

## **AUDIT & GOVERNANCE COMMITTEE**

**21 SEPTEMBER 2022**

### **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 2021/22, and the work undertaken by the Council with regard to 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 2021/22, reflecting on those complaints that were considered by the LGSCO up to March 2022
3. In short, the Council saw an increase in the number of complaints upheld in 2021/22 than in 2020/21: 14 upheld instead of 7. This in part was to be expected due to a pause for three months in 2020 by the LGSCO in accepting new complaints because of the Covid-19 Pandemic. Some complaints received in 2020/21, therefore, will have been decided on in 2021/22.
4. The LGSCO have themselves confirmed that they received and decided on fewer complaints than normal because they stopped accepting new complaints for three months due to Covid-19.
5. 70% of Oxfordshire cases considered by the LGSCO were upheld, compared to a national average of 71%. Whilst this is higher than last year's figure of 44%, it should be noted that the increase in investigated cases only rose from 16 to 20 despite the LGSCO receiving 27 more complaints for Oxfordshire in 2021/22 than the previous year. Furthermore, there was an increase in the number of complaints that were referred to the LGSCO about the Council: 64

as opposed to 37 in 2020/21 with 58 cases being decided as opposed to 40 in 2020/21.

6. As the LGSCO paused all of its case work for three months due to the Covid-19 pandemic, several cases received in 2020/21 are likely to have not been assessed for investigation until 2021/22. The higher number of decided cases may well be due to the LGSCO working through complaints that were received after the three months pause. That said, it remains positive that in times when all Councils have been experiencing the same challenges, Oxfordshire records as just below the national average.
7. It is reported that for the 14 upheld cases in 2021/22 Oxfordshire did not provide a satisfactory remedy before the complaint reached the LGSCO. Nationally, this compares to an average of 8% upheld cases in similar authorities where satisfactory remedy had been provided. However, it should be noted that in 100% of cases for Oxfordshire, the LGSCO were satisfied the Council had successfully implemented its recommendations.
8. This report explores these findings in more detail and sets them in the national context for county councils.

## **Purpose of the LGSCO's Annual Letter**

9. 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
10. The LGSCO records the following categories of information – which can be found contained within the Annual Review Letter.
  - Complaints and enquiries received - by subject area
  - Decisions made (upheld, not upheld, advice given, closed after initial enquiries, incomplete/invalid and premature)
11. 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**.

## **Summary of Complaints and enquiries received by the LGSCO**

12. The LGSCO records the subjects of county council complaints as follows – with Oxfordshire County Council's numbers for 2021/22.

By LGSCO category	Number of complaints received by the LGSCO
Adult care services	14
Education and children's services	37
Highways and transport	8
Corporate and other services	2
Environment services	1
Planning and development	1
Other	1

13. Most relate to adult social care and children's services; however, this is not unusual as these continue to reflect the national position.

## Decisions made by LGSCO

14. During the reporting period, the LGSCO made **58 decisions** concerning the Council (18 more than the previous year). Of these:

Closed by LGSCO, not pursued	20	34%
Referred to Oxon CC for resolution	16	28%
Incomplete or invalid complaints	1	2%
Offered advice by LGSCO as previously considered	1	2%
<i>Investigated</i>	20	34%

15. This means that **Investigations** were carried out on 20 complaints, 4 more than in 2020/21. The LGSCO's report indicates that:

Not upheld	6	30%
Upheld	14	70%

16. The rate of complaints upheld is 26% higher than the previous year, but the actual number of complaints upheld at 14 remains relatively low. The cases upheld are summarised below in **Annex 2** with an indication of the outcomes in each case.

## General comment by the LGSCO

17. The LGSCO recognises that councils will have been through a period of adaptation as the restrictions imposed by the pandemic lifted. They acknowledge that whilst some pre-pandemic practices returned, many new ways of working have been embedded in councils' routine processes. However, it remains the Ombudsman's view that "*complaint functions have been under-resourced in recent years, a trend only exacerbated by the challenges of the pandemic*". The Ombudsman encourages councils to consider how their organisation prioritises complaints, particularly in terms of capacity and visibility. "*Properly resourced complaint functions that are well-*

*connected and valued by service areas, management teams and elected members are capable of providing valuable insight about an organisation's performance, detecting early warning signs of problems and offering opportunities to improve service delivery.*" The LGSCO were pleased to deliver an online complaint handling course to Oxfordshire County Council's complaints staff early in 2022.

## The Overall context of complaints received by the Council

18. The Council received **578** complaints during 2021/22. These are broken down as follows, set against the numbers for recent years.

Type	2021/22	2020/21	2019/20
Corporate (i.e. non-social care)	321	197	273
Adults Social Care Complaints	117	108	119
Children's Social Care Complaints	140	150	140
	<b>578</b>	<b>455</b>	<b>532</b>

## Summary of upheld cases

19. The LGSCO upheld 14 cases (10 in relation to Education and Children's services, 3 for Adult Social Care, and 1 Corporate & Other Services. This remains in keeping with the national picture.

20. The **upheld complaints** are listed in **Annex 2**. 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).

## Conclusion

21. In 2021/22, 578 complaints were received by the Council, split across Corporate and Statutory complaints processes. The LGSCO received 64 complaints relating to the Council in the same year, although not all of these progressed to assessment or investigation stage. The LGSCO concluded 20 complaints, with 14 of those being upheld. As noted above the LGSCO had to suggest suitable remedies for all complaints upheld against Oxfordshire as the Council had not proposed its own; this is something that was identified last year as needing greater focus on and should now be prioritised as an action to take through in 2022/23.

22. Directorates should try to remedy complaints at the earliest opportunity via the Council's own internal complaints processes where possible whilst having regard for the LGSCO's Remedies guidance. For complaints that do reach the LGSCO, the Governance Team will encourage Directorates/Services to consider proposing a remedy at the outset of an enquiry and will assist in

identifying cases where this may be beneficial (such as where there are clear failings by the council that were not suitably remedied internally).

23.4 upheld cases found fault in the handling of complaints and the timeliness in completing the Council's processes. However, findings of fault regarding delays generally in Corporate/Statutory processes was a key theme, and the Council will need to take away learning from this and adopt measures to prevent such delays in the future.

24. The outcomes of the LGSCO's report indicate that the Council could achieve improvements to its own approach to complaints. The Council will work to:

- a. Further improve visibility for the Council's senior leadership team on issues, outcomes and learning;
- b. Provide additional training on best practice complaints-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;
- 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;
- d. Improve communication between complaints officers and services to reduce delays in concluding complaints investigations.

25. The Council was proactive in its response to the LGSCO's enquiries in 2021/22, ensuring it acted on recommendations within agreed timescales. The Council could continue to see a rise in the number of cases being investigated as it is likely that the effect of the Covid-19 pandemic will continue to impact on cases during 2022/23 due to the LGSCO still working through the backlog of cases received during that period.

26. Steps taken for 2022/23 referred to above at paragraph 23 and paragraph 24, should however, assist with the Council resolving more complaints via internal processes, and within the set corporate and statutory timeframes.

## **Legal, financial and staffing implications**

27. There are no legal, financial or staffing implications arising from this report.

### **Anita Bradley**

Director of Law & Governance and Monitoring Officer

Contact Officer: Sarah Smith  
sarah.smith@oxfordshire.gov.uk

September 2022

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

	<b>Nature of decision</b>	<b>Remedy</b>
<b>1</b>	<p><u>Summary:</u></p> <p>20004066 The handling of a safeguarding referral.</p>	No remedy to action.
<b>2</b>	<p><u>Summary:</u></p> <p>20006220 Handling of the process of issuing Education, Health Care Plan.</p>	Financial redress of £300 for the uncertainty it caused by the faults identified and a review/reminder to staff of procedures
<b>3</b>	<p><u>Summary:</u></p> <p>20007694 Handling of the process of issuing Education, Health Care Plan.</p>	Apology, Financial redress of a total of £450, and reminders to staff
<b>4</b>	<p><u>Summary:</u></p> <p>20007719 Handling of transition to post-16 education.</p>	Financial redress of a total of £500, and a review of practices & procedures
<b>5</b>	<p><u>Summary:</u></p> <p>20008770 Delays in complaints process.</p>	Financial redress of £250 and completion of stage 2 investigation without delay.
<b>6</b>	<p><u>Summary:</u></p> <p>20009409 Education provision.</p>	Financial redress of a total of £4565 to recognise the loss of education and failure to deliver the provision outlined in the

	<b>Nature of decision</b>	<b>Remedy</b>
		EHCP, to reimburse the family for private tuition costs, and to recognise upset, frustration, uncertainty caused, and time and trouble. To carry out a review of procedures
<b>7</b>	<u>Summary:</u> 20011555 Handling of a safeguarding investigation and complaints process.	Apology
<b>8</b>	<u>Summary:</u> 20013394 Delays in complaints process.	Financial redress of £300 and completion of stage 2 investigation
<b>9</b>	<u>Summary:</u> 20014250 Handling of the process of issuing Education, Health Care Plan.	Financial redress of a total of £1000 to remedy lost provision and in recognition of distress caused, and a review of policies and procedures.
<b>10</b>	<u>Summary:</u> 20014404 Handling and delays in provision of home care package (ASC).	Financial redress of £250: Avoidable distress/time and trouble, Provide training and/or guidance, reminding staff of the importance of sourcing alternative care as a contingency if an existing care package breaks down.
<b>11</b>	<u>Summary:</u> 21003092 Handling of the process of issuing Education, Health Care Plan.	Financial redress of a total of £5700 for loss of education and special educational provision, apology, review of practices and case in question to identify service improvements

	<b>Nature of decision</b>	<b>Remedy</b>
<b>12</b>	<p><u>Summary:</u></p> <p>21004488 Quality of the provision of care by a third-party care provider, contracted by Council.</p>	<p>Apology, Financial redress of a total of £600: Avoidable distress/time and trouble, Financial redress: Loss of service</p>
<b>13</b>	<p><u>Summary:</u></p> <p>21011436 Delays in complaint process.</p>	<p>Financial redress of £125, and completion of stage 3 panel</p>
<b>14</b>	<p><u>Summary:</u></p> <p>21015257 Distress caused by Data Protection Breach</p>	<p>Financial Redress of £200.</p>