

AUDIT & GOVERNANCE COMMITTEE

12 SEPTEMBER 2018

LOCAL GOVERNMENT OMBUDSMAN – ANNUAL REVIEW REPORT

Report by the Monitoring Officer

Introduction

1. Each year, the Local Government Ombudsman (LGO) issues an Annual Review Report about each council in relation to the complaints made to the Ombudsman about that Council in the previous financial year. My report to this Committee therefore informs members about the LGO's Annual Review Report for Oxfordshire County Council for the year 2017/18.
2. In short, the same amount of complaints about the Council have been upheld by the Ombudsman in 2017/18 as compared to the previous year, but with fewer complaints being referred to him. That being said, put into the context of county council performance generally, the Council has the third lowest number of complaints decided compared with other County Councils and has the fourth lowest number of upheld complaints (seven in total) against the same comparison. It remains encouraging that fewer complaints are being made to the LGO. It continues to suggest that the Council's system of control expressed through its own complaints processes is working well.
3. This is not a case for complacency however and this report sets out the LGO's findings, the wider context and also details the complaints upheld by the LGO during 2017/18.

The LGO's 2017/18 report

4. Under the Local Government Act 1974, the LGO has two main statutory functions:
 - To investigate complaints against councils (and some other authorities)
 - To provide advice and guidance on good administrative practice
5. Following changes to the structure of the Ombudsman's investigative and recording procedures, the Ombudsman now records the following categories of information – summarised in their Annual Review Report (attached as **Annex 1**):
 - Complaints and enquiries received - by subject area

- Decisions made (upheld, not upheld, advice given, closed after initial enquiries, incomplete/invalid and premature)

Complaints and enquiries received by the LGO

6. During 2017/18, the LGO received **44** *complaints and enquiries* about the Council. In 2016/17 this had been 66; and in 2015/16 59. This significant decrease is encouraging this appears contrary to the national trend reported by the Ombudsman. As the Ombudsman has said, a rise in complaints is not in itself indicative of problems. In the Ombudsman's Foreword to this year's Review of Local Government Complaints 2017/18 the LGO Mr Mike King said:

"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".

7. The Council's complaints policy and processes are indeed well publicised and responses indicate how complaints can be escalated further including to the Ombudsman. A general increase in the number of complaints being upheld against councils is reported in the LGO's Review of Local Government Complaints 2017/08, which states that nationally overall 57% of all substantive investigations have been upheld compared with 54% from 2016/17.
8. Oxfordshire bucks this trend in that there has been no increase (and no decrease) in the number of upheld complaints: 7 in 2017/18, the same number as in 2016/17. However, compared with other County Councils, Oxfordshire has the fourth lowest number of upheld complaints, as opposed to third position last year, which is not a major shift and remains a positive sign that the Council's own complaints policy is sufficiently robust.
9. **Annex 1** to this report includes the LGO's full list of subject areas for Oxfordshire County Council which has attracted referrals to the Ombudsman. These were:
 - Adult care services- 14
 - Education and children's services- 23
 - Highways and transport- 5
 - Corporate and other services- 1
 - Environment services- 1
 - Planning and development- 0
10. This is consistent with the national picture and is not particular to Oxfordshire. The LGO has reported that in 2017/18 the LGO received over 17,452 complaints and enquiries about councils. The greatest proportion was about Education and Children's Services, followed by Adult Social Care, and Planning.

Decisions made by LGO

11. During the reporting period, the LGO made **40 decisions** concerning the Council (26 fewer than the previous year). Of these, some complaints were closed and not pursued (12 out of 40, 30%). Some complaints were referred back to the Council for resolution (14 out of 40 cases, 35%) as the complainant had not allowed the Council to consider the complaint first.
12. **Investigations** were therefore carried out into 14 complaints, 5 fewer than in 2016/17. The LGO's report indicates that of these, 5 were not upheld, 2 were considered incomplete or invalid, while 7 were upheld. The LGO therefore reports an 'Uphold rate' figure for the Council of 58%% (7 upheld cases out of 14 full investigations). This is 21% more than the previous year.

Context

13. The Council received 244 Corporate Complaints during the 2017/18 financial year (these being complaints about non-social care issues). In addition, the Council received 169 Adult Social Care complaints and 107 Children's Social Care complaints giving a collective total of 520 complaints. The total of complaints upheld by the Ombudsman represents just 1.4% of the whole complaints received by the Council.
14. Thumbnail details of the 7 upheld complaints are as follows:

Nature of decision	Remedy
<p><u>Summary:</u></p> <p>The Complainant complained that the Trust, Council and CCG failed to agree to refund the care home fees paid for her late relative, under either s.117 of the Mental Health Act 1983 or NHS Continuing Healthcare Funding.</p>	<p>The Council agreed to remedy this matter by calculating its proposed refund of the care home charges plus interest</p>
<p><u>Summary:</u></p> <p>The complainants complained about the actions of the Council's Children's Services Department in respect of the way the Council dealt with a child protection investigation, alleging it failed to make suitable educational provision for their child.</p> <p>Fault was found in the way the Council handled a child protection</p>	<p>Reconsider the complaint through the procedure for complaints about child protection conferences.</p> <p>Add a copy of the decision on the case notes of the child concerned.</p> <p>Pay £250 for the time spent in pursuing the complaint and another £250 for distress caused.</p>

Nature of decision	Remedy
investigation and the complaint about it that followed.	An apology
<p><u>Summary:</u></p> <p>The complainant complained that the Council failed to take action on poor provision of care by a care provider, refused to adequately cover the costs of care needs and in calculating contribution to care costs, failed to consider the extra costs of a live-in carer.</p> <p>Fault was found for the Council's approach to a calculation of a suitable budget for the care needs.</p>	<p>An apology.</p> <p>Review procedures.</p> <p>Recalculation of the budget and backdating.</p> <p>Payment of £1,275 towards the complainant's legal expenses and payment of £500 to reflect the time and trouble for the complainant.</p>
<p><u>Summary:</u></p> <p>The complainant complained that the Council had failed to properly consider her complaint about the Council taking her child into care and follow recommendations from the stage three complaints panel.</p> <p>No evidence that the Council failed to properly consider the complaint but the investigator did find that the Council failed to follow one of the stage three panel's recommendations.</p>	An apology
<p><u>Summary:</u></p> <p>The complainant complained that the Council failed to arrange suitable education for him since September 2016 under his Education, Health and Social Care Plan (EHCP). The Council was found at fault.</p>	<p>Payment of £6000 and a further £250 for the distress caused.</p> <p>Requirement to obtain an up to date medical opinion as to whether the complainant could manage school.</p> <p>An apology</p>
<p><u>Summary:</u></p> <p>The complainant complained the</p>	An apology.

Nature of decision	Remedy
<p>Council acted wrongly in carrying out a section 47 investigation in respect of his child.</p> <p>No fault in the Council conducting a section 47 investigation but fault found as the Council did not properly communicate with the complainant.</p>	<p>Review to establish what happened in this case.</p>
<p><u>Summary:</u></p> <p>The Complainant complained that the Council failed with regards to notice of amendments and the issuing of a final ECHP.</p> <p>The investigator found fault with this.</p>	<p>An apology</p> <p>Payment of £150 for time and trouble.</p> <p>Review of procedure with regards to ECHP.</p>

15. In the Annual Letter, in respect of the first complaint in the above table, the Council was commended by the LGO for its willingness to recognise fault and to take action to put matters right by reconsidering its view and proactively offering an appropriate remedy. The LGO said he “welcome[d] this positive approach to complaint handling”.

Comparison with other county councils

16. An analysis of the Council’s performance in comparison to the UK’s other County Councils is included as **Annex 2**. This contextualises the data which makes up the Ombudsman’s report and provides useful comparators for measuring the Council’s overall performance.
17. A comparison of overall LGO ‘decision statistics’ for other county councils shows that Oxfordshire County Council:
- Ranked fourth lowest in the number of complaints upheld by the LGO
 - Ranked the third lowest number of complaints investigated by the LGO

Exempt Information

18. None.

Conclusion

19. This year's Annual Letter from the Ombudsman is generally positive. While not a cause for complacency, (each upheld complaint has been taken seriously and is one too many), the LGO's report indicate that this important strand of governance is working effectively. It suggests that the Council's complaints handling is robust and enables the large majority of complaints to be resolved within existing procedures (with each response containing a clear referral-route to the LGO).
20. On my behalf, during this period the Access & Disclosure Team in Law and Governance continued to disseminate best practice, case studies and advice to managers on the handling of complaints, to keep knowledge current. The Team also monitored responses to ensure that complaints, particularly at the further review stage internally, were soundly considered and also contained the necessary signposting to the LGO. Having regard to how the LGO is likely to view a complaint is also helpful in enabling managers to consider how best to respond to complaints. This helps to ensure robust and informative responses, based on good governance principles. This Team also co-ordinated the responses to LGO complaints, liaising with service managers to ensure that the LGO receives a full and frank response, in the interests of accountability and good governance. During the year ahead, the team will also be meeting with Directorate Leadership Teams to commend and reinforce best practice and to ensure good complaints handling.

Financial and Staff Implications

21. None.

RECOMMENDATION

22. **The Committee is RECOMMENDED to note and comment upon this report and on the Local Government Ombudsman's Annual Review of Oxfordshire County Council for 2017/18.**

Nick Graham
Monitoring Officer

Background papers: Local Government Ombudsman publications:

- Review of Local Government Complaints 2017/18

Contact Officer: Nick Graham
01865 323910

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