

AUDIT & GOVERNANCE COMMITTEE - 17 SEPTEMBER 2014

LOCAL GOVERNMENT OMBUDSMAN – ANNUAL REVIEW REPORT

Report by County Solicitor and 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 about Oxfordshire County Council for the year 2013/14.
2. In previous years, the Ombudsman issued more detailed Annual Reports with a commentary on each authority's performance. Following changes to the LGO's investigations procedures, this is no longer the case. Their Report is therefore high level and does not provide a direct comparison with previous years nor does it give county averages so as to enable direct benchmarking.
3. However, the figures for other county councils reveal that Oxfordshire is the fifth-lowest in terms of the number of referrals to the Ombudsman; and the lowest in terms of the percentage of complaints actually upheld by the Ombudsman. This reflects very well on the Council's system of control as expressed through the Council's own complaints handling processes.

The LGO's 2013/14 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 to this report):
 - 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 LGO

6. During 2013/14, the LGO received **50** *complaints and enquiries* about the Council. In 2012/13, this had been 39; and in 2011/12 47. The number therefore fluctuates each year and cannot of itself be regarded as an accurate assessment of Council performance. Annex 1 includes the LGO's full list of subject areas which have attracted referrals to the Ombudsman, the top three being:

- Adult care services 15 individual complaints to the LGO
- Education and children's services 15 "
- Highways and transport 11 "

7. To put this in context, the LGO's publication *Review of Local Government Complaints 2013/14* notes that of the 18,500 complaints it received that year, these three services also attracted a significant number of complaints on a national basis:

- Education and children's services 17% of all LGO complaints
- Adult social care 12% (the most significant subject area rise over previous years)
- Highways and transport 11%

8. The services attracting most complaints included district council functions such as council tax and planning. Therefore, occurrence of complaints about the three subject areas in paragraph 6 is not itself surprising and accords with national trends.

Decisions made by LGO

9. The more telling figure relates to the actual *decisions* made by the LGO (of which there were 60, with 10 cases carrying over from the previous year). This is because the majority of enquiries and complaints received by the LGO were simply closed and not pursued at all (22 of 60 cases); or were referred to the Council for resolution (14 out of 60 cases) as the complainant had not allowed the Council to consider the complaint first. The LGO no longer publishes information about councils' compliance with the normal 20 working day timescale for submitting responses back to the LGO. However, the overall percentage compliance rate, as recorded by this Council for 2013/14 is 99%, which represents a slight improvement, year on year, for the past three years.
10. ***Investigations*** were carried out into 21 complaints. The LGO's report indicates that of these, 14 were not upheld, while 7 were upheld. However, after checking these figures with the actual decisions issued by the LGO, these statistics require amendment. In fact **16 cases were 'not upheld' and 5 cases were 'upheld'**. The LGO has been asked to correct this on its own records.

11. Thumbnail details of these 5 “upheld complaints” are as follows:

Nature of complaint	Decision	Remedy
Failure to take action to address the misuse of public facilities in a lay-by on the A40	Council failed to pursue the options addressed to resolve the issues.	Council to review the options and actively work with stakeholders to improve the situation within a specified time
Grandmother admitted to wrong level of care and the home did not respond to her needs	Right to place the lady in the care home; but failure to review placement earlier; failure to refer to falls unit earlier and to follow up recommendation of the falls service following referral.	Agreed to review processes and requirements for record keeping.
Failure to hear an appeal against a decision not to issue a driver’s badge to transport children	Flawed and delayed decision when driver refused an appeal for a driver’s badge to transport school children	Apology to complainant; payment of £3,800 toward lost income and costs, time and trouble; issue revised process for issuing badges and guidance for applicants.
Delay in undertaking care assessment and not providing appropriate care/support to family	Delayed reviewing support plans and child in need plans. Evidence of administrative fault; family not significantly affected by it.	Agreed to review processes and remind staff of the importance of reviewing support plans and child in need plans at appropriate intervals.
A provider on behalf of the Council failed to give the appropriate 1-2-1 support	Uncertainty existed as to whether appropriate care had received the full amount of 1-2-1 care	Agreed to commission an independent person to assess whether the appropriate 1-2-1 care had been provided

Comparison with other county councils

12. A comparison of overall LGO ‘decision statistics’ for other county councils shows that Oxfordshire County Council:
- Attracted the fifth lowest number of referrals to the LGO
 - Had the lowest percentage of complaints actually upheld by the LGO
 - Had the fifth highest number of complaints closed by the LGO after first enquiry (i.e. no case to answer)
13. The comparison shows that not only has the Council one of the highest instances of complaints being closed by the LGO after first assessment, but once complaints were fully investigated, we have the lowest county incidence of complaints being upheld. A population comparison shows that, among county councils, Oxfordshire had two upheld LGO complaints for every 100,000 of population, which is the lowest among county councils in England.

14. This sound position reflects well on the work of the Directorates of the Council. It is noteworthy that the Council's complaints processes stand up well in comparison with the best practice recommended by the LGO. For instance, in the LGO's report *Review of Local Government Complaints 2013/14*, two of the instances of best practice are *accessibility to council's complaints processes*; and *whether complainants are properly signposted to the Ombudsman*. In the first case, the County Council enables people to make complaints in person, on the phone, by email or online. In terms of referrals, all of the Council's final responses to a complainant advise them of the right to take matters to the Ombudsman; our responses also give up to date contact details for doing this.

Conclusion

15. This year's Annual Letter from the Ombudsman is encouraging. The number of complaints upheld by the Ombudsman is a low proportion of the investigations actually undertaken by her. Compared to other counties, the Council has the lowest proportion of upheld complaints. This is not a matter for complacency; however, it does indicate that the Council's own complaints processes are working effectively.
16. On my behalf, the Complaints & Freedom of Information team continues to disseminate best practice, case studies and advice to managers on the handling of complaints, to keep knowledge current. The Team also leads on the co-ordination of 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.

Financial and Staff Implications

17. None.

RECOMMENDATION

18. **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 2013/14.**

PETER CLARK
County Solicitor and Monitoring Officer

Background papers: Local Government Ombudsman's "Review of Local Government Complaints 2013/14"
Contact Officer: Peter G Clark, County Solicitor & monitoring Officer; Tel (01865) 323907

September 2014