

Division(s):

AUDIT & GOVERNANCE COMMITTEE

14 SEPTEMBER 2016

LOCAL GOVERNMENT OMBUDSMAN – ANNUAL REVIEW REPORT

Report by Nick Graham, 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 2015/16.
2. In short, fewer complaints about the Council have been upheld by the Ombudsman in 2015/16 compared to the previous year, even with slightly more complaints being referred to her. Put into the context of county council performance generally, the Council is the third lowest in the number of complaints submitted to the Ombudsman per 100,000 residents and has the fifth lowest number of upheld complaints per 100,000 residents. This remains encouraging and 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 her.

The LGO's 2015/16 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 2015/16, the LGO received **59** *complaints and enquiries* about the Council. In 2014/15 this had been 53; and in 2013/14 50. A steady increase such as this is in line with the national trend reported by the Ombudsman.
7. In past years, this Committee has been warned of mistakes in the reported figures. Often those mistakes concerned disputes about whether a complaint was actually upheld or not. There are no such disputes in this reporting period.
8. A general increase in the number of complaints being upheld against councils is reported in the LGO's recent press release titled "Ombudsman upholding more complaints about local government" 28 July 2016. This is actually not true of this Council as the Ombudsman only upheld 7 complaints in 2015/16, whereas in 2014/15, 9 complaints were found upheld. This is an encouraging result, given a small increase in the numbers of complaints about the Council referred to the LGO.
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- 22
 - Education and children's services- 21
 - Highways and transport- 9
 - Corporate and other services- 3
 - Environment services- 2
 - Planning and development- 2

TOTAL= 59

10. This is consistent with the national picture and is not particular to Oxfordshire. The LGO's publication *Review of Local Government Complaints 2015/16* notes that of the 19,702 complaints and enquiries it received that year, the following three services attracted a significant number of complaints on a national basis:
 - Education and children's services 18% of all LGO complaints
 - Adult social care 13%
 - Highways and transport 11%

Decisions made by LGO

11. During the reporting period, the LGO made **55 decisions** concerning the Council. Of these, some complaints were closed and not pursued (21 out of 55, 38%). Some complaints were referred back to the Council for resolution (18 out of 55 cases, 33%) as the complainant had not allowed the Council to consider the complaint first.

12. **Investigations** were therefore carried out only into 15 complaints, a decrease from 17 investigations in 2014/15. The LGO's report indicates that of these, 8 were not upheld, while 7 were upheld. The LGO therefore reports an 'Uphold rate' figure for the Council of 47% (7 upheld cases out of 15 full investigations).

13. The Council received 282 Corporate Complaints during the 2015/16 financial year, compared with 287 for 2014/15. In addition, the Council received 187 Adult's Social Care complaints and 84 Children's Social Care complaints, giving a collective total of 553 complaints. Of those complaints, the total of cases upheld by the Ombudsman represents just 1%.

14. Thumbnail details of the 7 upheld complaints are as follows:

Nature of decision	Remedy	Comments	Action taken
<p>Summary: The Council was not at fault in convening a child protection conference. It was at fault in not sharing a child protection conference report in a timely way and in not taking earlier notice of the complainant's comments on a social worker's report.</p>	<p>Nil recommended</p>	<p>The substantive issues in this case were not upheld, only minor administrative faults.</p>	<p>As the injustice was not significant, no action was required.</p>
<p>Summary: There was fault by the Council in: approaching solicitors about an application for deputyship; the lack of clear communication with Miss B about the approach to the solicitors and the capacity assessment in September 2014; and, the lack of clear communication to Miss B about a key safe.</p>	<p>Nil recommended</p>	<p>Council approached solicitors to assist the family, there was some confusion around whether all parties agreed to this and solicitor submitted bill for lost time when cancelled, which caused further problems, which the Council accepted.</p> <p>No evidence was produced to support the suggestion that our officers did not keep in regular contact with the complainant. Our</p>	<p>The staff member who arranged for the solicitors to act has been offered training on the boundaries of their practice. Further, the Complaints Team has recommended that staff, when making calls to service users and associated family and friends, make a record of those contact attempts even when they are unsuccessful.</p>

Nature of decision	Remedy	Comments	Action taken
		staff said that they were trying to get in touch with the complainant consistently by telephone, but no contact was made. However, as no records of those attempts were kept, the LGO assumed that no contact had been attempted.	
Summary: the Council failed to provide adequate support to Mr B when setting up a direct payment, delayed making payments and failed to set the payments up correctly. An apology, £250 compensation and reimbursement of any costs which should have been covered by direct payments is adequate remedy for the injustice caused.	Apology, Financial Redress	A clerical error led to one aspect of this complaint being considered as partly upheld.	The Council agreed to remind officers of the need to follow the Council's policy for recovering unspent direct payment funds. Apology and financial redress given.
Summary: There was some administrative fault. The care home was slow to remove images of Mrs X's parents from her website. The Council and care home took action and apologised to Mrs X to remedy the complaint.	Apology	This complaint was about the Care Home's handling of a death of a resident and their communication with the complainant. The Council reminded the care home of its responsibilities with regards to communication and practices. The substantive grounds of complaint were not upheld or not investigated.	Apology given. As there was no criticism of the continuing care or safeguarding of Mrs X's parents, no further action was required.
Summary: Ms X	Nil	The papers were	Discussions have

Nature of decision	Remedy	Comments	Action taken
<p>complains the Council lost her school admission appeal papers. This was fault by the Council but it did not alter Ms X's chances of obtaining a place at her preferred school.</p>	<p>recommended</p>	<p>confirmed as misplaced as the complainant received a receipt for depositing them at County Hall. However, the substantive issues were not upheld and it was found that the same outcome of the appeal would have been reached in any event, despite the unfortunate loss of documentation.</p>	<p>taken place between the appeals team and the front desk staff to ensure that the process for passing appeal papers between the areas is followed in future.</p>
<p>Summary: The Council failed to properly assess Mrs X's ability to care for Y, and Y's needs as a child in need when she agreed to care for Y, her sister's son, in 2004. The arrangement relieved the Council from having to seek parental responsibility for Y, which it was preparing to do. This caused Mrs X financial hardship at the time.</p>	<p>Additional services, Financial Redress</p>	<p>Injustice was caused to the complainant, but we took steps to assist her following the LGO initial contact with us, which remedied that aspect of the complaint. We settled a financial remedy in recognition of the fault caused in 2004.</p>	<p>As this matter related to 2004 and the legislation has since changed with regards to this type of financial support, the Council has not taken any action as it is not relevant to the present day.</p> <p>Financial remedy given.</p>
<p>Summary: Mr and Mrs B say the Council failed to consider their complaints about a children's services matter properly or thoroughly. They were unhappy the Council refused to go to Stage Three of the statutory complaints</p>	<p>Other Remedy</p>	<p>We had remedied any faults before the matter reached the LGO. The LGO admitted that nothing more could be achieved than what our internal processes had arrived at.</p>	<p>This was a particularly complex case, made particularly difficult by the submission of several hundred separate grounds of complaint, which the complainant insisted the Council deal with individually. In the circumstances, it was considered the correct approach was to take a proportionate view of the grounds of</p>

Nature of decision	Remedy	Comments	Action taken
procedure. There was evidence of fault but the remedy, in the form of an apology and changes to procedures, has already been provided by the Council.			complaint and deal with them collectively. In the circumstances, the approach to this case was considered sufficient.

Comparison with other county councils

15. 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.
16. A comparison of overall LGO 'decision statistics' for other county councils shows that Oxfordshire County Council:
 - Ranked third lowest in the number of complaints submitted to the Ombudsman per 100,000 residents (8.4 per 100,000)
 - Had the fifth lowest number of upheld complaints per 100,000 residents (1.07 per 100,000)

Exempt Information

17. None.

Conclusion

18. This year's Annual Letter from the Ombudsman is positive. While not a cause for complacency, (each upheld complaint has been taken seriously), this year's report does indicate that this important strand of governance is working effectively. In comparison with other counties, the Council had the third lowest number of referrals to the Ombudsman and the fifth lowest number of complaints upheld per 100,000 population. Only 1% of the complaints actually received by this Council were upheld by the LGO.
19. On my behalf, the Access & Disclosure 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

20. None.

RECOMMENDATION

21. **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 2015/16.**

Nick Graham
Monitoring Officer

Background papers: Local Government Ombudsman publications:

- Review of Local Government Complaints 2015/16
- Handling complaints for service improvement

Contact Officer: Nick Graham
September 2016