

Division(s):

## **AUDIT & GOVERNANCE COMMITTEE - 6 SEPTEMBER 2017**

### **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 2016/17.
2. In short, fewer complaints about the Council have been upheld by the Ombudsman in 2016/17 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 has the third lowest number of upheld complaints per 100,000 residents (seven upheld complaints). This is an improvement on last year (fifth lowest) and remains encouraging. 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 2016/17.

#### **The LGO's 2016/17 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 2016/17, the LGO received **66** *complaints and enquiries* about the Council. In 2015/16 this had been 59; and in 2014/15 53. A steady increase such as this is in line with the national trend reported by the Ombudsman. As the Ombudsman has said, a rise in complaints is not in itself indicative of problems. In his press release announcing this year's performance statistics, the LGO Mr Mike King said:

“A high number of complaints does not necessarily mean a council is performing poorly. It may indicate an authority that welcomes and encourages feedback, through a transparent system which signposts people appropriately when its own processes have been exhausted.”

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 also reported in the LGO's recent press release (entitled "Ombudsman releases complaints statistics for all local authorities" dated 2 August 2017).
8. Oxfordshire bucks this trend in that there has been no increase (and no decrease) in the number of upheld complaints: 7 in 2016/17, the same number as in 2015/16. Given the overall rise in the number of complaints referred about this Council to the Ombudsman, it is somewhat encouraging that the number of upheld complaints has not risen accordingly. Compared with other County Councils, Oxfordshire has the third lowest number of upheld complaints, an improved position on last year.
9. As indicated in the table at paragraph 15 below, the Council did not in fact agree with the LGO that one of these complaints was 'upheld' against the Council. This was relayed to the LGO.
10. **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- 17
  - Education and children's services- 23
  - Highways and transport- 13
  - Corporate and other services- 3
  - Environment services- 4
  - Planning and development- 3
11. This is consistent with the national picture and is not particular to Oxfordshire. The LGO has reported that in 2016/17 the LGO received over 16,500 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**

12. During the reporting period, the LGO made **66 decisions** concerning the Council (11 more than the previous year). Of these, some complaints were closed and not pursued (23 out of 66, 35%). Some complaints were referred back to the Council for resolution (21 out of 66 cases, 32%) as the complainant had not allowed the Council to consider the complaint first.
13. **Investigations** were therefore carried out into 19 complaints, 5 more than in 2016/17. The LGO's report indicates that of these, 12 were not upheld, while 7 were upheld. The LGO therefore reports an 'Uphold rate' figure for the Council of 37% (7 upheld cases out of 19 full investigations). This is 12% less than the previous year.

Context

14. The Council received 279 Corporate Complaints during the 2016/17 financial year (these being complaints about non-social care issues). In addition, the Council received 169 Adult Social Care complaints and 91 Children's Social Care complaints giving a collective total of 539 complaints (553 previously). The total of complaints upheld by the Ombudsman represents just 1% of the whole complaints received by the Council.
15. Thumbnail details of the 7 upheld complaints are as follows:

Nature of decision	Remedy
<p><u>Summary:</u> The Council was at fault for not obtaining medical advice when it decided to reduce a child's entitlement to education based on his health needs. The NHS Trust was at fault for not providing the parents of the child with respite nurses.</p> <p>The Ombudsman asked that the Council review policy on Section 19 provision with a view to including a statement to explain how the duty will be met for children who attend special schools.</p>	<p>Section 19 responsibilities were reviewed and the policy was published on the website in February 2017.</p>
<p><u>Summary:</u> The Council was at fault for failing to act in accordance with the law and Department of Health statutory guidance (no secrets) on safeguarding adults.</p>	<p>Updated safeguarding procedures were discussed in team meetings and case audits.</p> <p>Safeguarding Team revisited their process of informing key agencies and</p>

Nature of decision	Remedy
<p>The Council failed to follow its policy and procedure for safeguarding investigations.</p> <p>The Council failed to inform the monitoring department of its finding of partial neglect about the care home. The Council failed to inform the CQC of its finding of partial neglect. The Council failed to engage with the complainant throughout the safeguarding investigation and failed to inform him of its findings.</p> <p>There were also several faults against the care provider.</p> <p>Various recommendations in the public report. All of the 4 actions were completed.</p>	<p>colleagues to ensure that in future information is cascaded appropriately</p> <p>The safeguarding manager implemented a new case audit process with the team.</p> <p>Safeguarding dashboard was revisited to ensure its robustness.</p>
<p><u>Summary:</u> The Council was at fault for withdrawing free school transport in one case.</p> <p>No recommendations by LGO for additional remedy.</p>	<p>The council corrected its mistake in this case. No wider service improvements were necessary.</p>
<p><u>Summary:</u> The Council was at fault by taking six months to inform Mrs X of the outcome of an assessment of her husband's needs and what the revised social care budget would be.</p> <p>No recommendations by LGO for additional remedy.</p>	<p>Whilst the council was at fault for the delay in this case, an apology was provided and there were no wider service improvements.</p>
<p><u>Summary:</u> The Council failed to follow its policy when it approved the complainant's application for a dropped kerb.</p>	<p>The Council agreed to remedy this by paying the complainant £150.00.</p> <p>The Council also agreed to amend its procedures to ensure it obtains confirmation in writing that planning permission is not needed before it approves an application for a dropped</p>

Nature of decision	Remedy
<p><u>Summary:</u> The Council could have been clearer about the process used to decide that Mr X should stop transporting vulnerable people.</p> <p>This could have been made easier for him by offering him an interpreter.</p> <p>The Ombudsman suggested the council consider how it deals with such aspects in the future.</p>	<p>curb.</p> <p>The Council put this right by carrying out a further review of the decision and the LGO did not suggest further remedy. However, the LGO did ask that the Council review how it deals with these aspects in future..</p>
<p><u>Summary:</u> LGO considered that the Council was at fault in the way it dealt with Mr Y's move to another area (i.e. the consequent transfer of care to Council B) and its "refusal" to accept responsibility for the continuation of funding while a dispute was resolved with Council B.</p>	<p>The Council disagree fundamentally with the LGO on the facts of this case and did not accept that it was at fault. A financial penalty on the Council contained in the LGO's draft decision was objected to and removed from the final version of the decision. The Council had properly handed over the care of Mr Y and ceased funding the placement in July 2011: correspondence with Council B had led to Council B accepting responsibility for Mr Y's care.</p> <p>The Secretary of State, considering the matter, also recognised that Council B had properly taken over responsibility.</p> <p>The Council's view, expressed to the LGO, was that any subsequent service failures were for Council B. This is reflected in Council B wholly accepting the LGO's suggested remedy of paying £67,000 owing to the care provider for Mr Y's support and taking responsibility for resolving any outstanding amounts.</p>

### ***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 third lowest in the number of complaints upheld by the LGO
- Ranked the fifth 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, enables the vast majority of complaints to be resolved within existing procedures but nevertheless contains clear referrals to the Ombudsman.

20. On my behalf, the Access & Disclosure Team 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 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.

## **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 2016/17.**

Nick Graham  
Monitoring Officer

Background papers: Local Government Ombudsman publications:

- Review of Local Government Complaints 2016/17

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