

AUDIT & GOVERNANCE COMMITTEE - 11 September 2019

Local Government Ombudsman – Annual Review Report

Report by Monitoring Officer

RECOMMENDATION

1. The Committee is RECOMMENDED to note and comment on this report and on the Local Government Ombudsman's Annual Review of Oxfordshire County Council for 2018/19.

Introduction

2. Each year, the Local Government and Social Care Ombudsman (LGO) issues an Annual Review Report about each council in relation to the complaints made to the Ombudsman 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 2018/19.

Summary

3. In short, whilst a higher number of complaints about the Council were upheld in 2018/19 than in 2017/18 (9 upheld as compared with 7) this is in the context of a higher number of complaints and therefore represents a significant reduction in the number of upheld complaints investigated by the LGO. Encouragingly, the Council is the fifth lowest of all County Councils for complaints upheld by the Ombudsman and has a 50% uphold rate of complaints decided by the LGO. This is lower than the 64% rate for similar authorities.
4. Additionally, in 22% of upheld cases, the LGO found on investigation that the Council had already provided a satisfactory remedy before the complaint reached the Ombudsman which compares to only 9% in similar authorities. In 100% of cases, the LGO was satisfied the Council had successfully implemented its recommendations. This compares to an average of 99% in similar authorities.
5. It is noteworthy that a higher number of complaints and enquiries have been made to the LGO (15 more than 2017/18) and would suggest that the Council's system of control expressed through its own complaints processes can be strengthened. The Ombudsman is, though, also of the view that a higher number of complaints does not necessarily indicate that an authority is 'doing something wrong': it can mean that signposting to the LGO is clear and working.

6. There is no reason for complacency however. This report sets out the LGO's findings, the wider context and also details of the complaints upheld by the LGO during 2018/19.

The LGO's 2018/19 report

7. 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
8. Following changes to the structure of the Ombudsman's investigative and recording procedures, the Ombudsman now 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)

Complaints and enquiries received by the LGO

9. During 2018/19, the LGO received **59 complaints and enquiries** about the Council. In 2017/18 this had been 44; and in 2016/17 66. As the Ombudsman has said, a rise in complaints is not in itself indicative of problems. In the Ombudsman's Annual Review Letter to the Council, the LGO Mr Mike King said:

“As ever, I would stress that the number of complaints, taken alone, is not necessarily a reliable indicator of an authority's performance. The volume of complaints should be considered alongside the uphold rate (how often we found fault when we investigated a complaint), and alongside statistics that indicate your authority's willingness to accept fault and put things right when they go wrong. We also provide a figure for the number of cases where your authority provided a satisfactory remedy before the complaint reached us, and new statistics about your authority's compliance with recommendations we have made; both of which offer a more comprehensive and insightful view of your authority's approach to complaint handling.”

10. The Council's complaints policy and processes are indeed well-publicised and our responses advise how complaints can be escalated further including to the Ombudsman. However, there has been a small increase in the number of upheld complaints.
11. Oxfordshire County Council which has attracted referrals to the Ombudsman. These were:
 - Adult care services- 21

- Education and children’s services- 27
- Highways and transport- 7
- Corporate and other services- 4
- Environment services- 0
- Planning and development- 0

Decisions made by LGO

12. During the reporting period, the LGO made **57 decisions** concerning the Council (17 higher than the previous year). Of these, some complaints were closed and not pursued (17 out of 57, 30%). Some complaints were referred back to the Council for resolution (17 out of 57 cases, 30%) as the complainant had not allowed the Council to consider the complaint first. Some complaints were considered incomplete or invalid (4 out of 57 cases, 7%) and one complainant was offered advice as the complaint had been previously considered and decided (1 out of 57, 2%).
13. **Investigations** were therefore carried out into 18 complaints, 4 more than in 2017/18. The LGO’s report indicates that of these, 9 were not upheld, while 9 were upheld. The LGO therefore reports an ‘Uphold rate’ figure for the Council of 50% (9 upheld cases out of 18 full investigations). This is 8% lower than the previous year.

Context

14. The Council received **380** Corporate Complaints during the 2018/19 financial year (these being complaints about non-social care issues). In addition, the Council received **165** Adult Social Care complaints and **135** Children's Social Care complaints giving a collective total of complaints. The number of complaints upheld by the Ombudsman is in the context of the total number of complaints received by the Council, i.e. a total of **680**. This means that 9 upheld LGO complaints represents 1.3% of the Council’s complaints.
15. Thumbnail details of the 9 upheld complaints are as follows. It is noteworthy that, in certain instances, it was not the LGO that itself identified a fault; rather it endorsed action already identified by the Council in the pre-LGO consideration of the complaint: the LGO nevertheless had to find those complaints as ‘upheld’. NB all the remedies noted were implemented.

Nature of decision	Remedy
<p><u>Summary:</u></p> <p>Fault by the Clinical Commissioning Group and the Council over the provision of a learning disabilities residency.</p>	<p>Apology to the family that the Council did not make sure that you they were aware of the arrangements for the level of care being provided or ensure that they had seen the terms and conditions of that agreement.</p>

Nature of decision	Remedy
	Committed, on expiry of the framework agreement for Learning Disability providers then existing, to look at the documentation that providers give to people and their families, including support plans and any other agreement between the organisation and the individuals receiving that support. Invited the family to give input into developing this documentation.
<p><u>Summary:</u> The Trust, Council and CCG were at fault for not ensuring X received funding for the care home under s117 aftercare. This caused significant financial loss.</p>	Issued a refund of care home charges.
<p><u>Summary:</u> The Council did not deal with an allegation against X properly, causing X distress and leaving X unable to work for longer than was necessary. The Council did not fully follow its own guidance for dealing with allegations against people working with children.</p>	Maladministration; no injustice. No remedy necessary.
<p><u>Summary:</u> The Council charged a person twice for car parking due to a technical fault.</p>	The Council had taken appropriate steps to resolve the issue and case closed as LGO would be unlikely to recommend any further remedy.
<p><u>Summary:</u> Fault in the way the Council dealt with indirect contact arrangements with a parent's children. It did not send X some minutes of meetings when it said it would.</p>	Apology given. The Ombudsman did not find evidence of further fault in the way the Council dealt with the arrangements.
<p><u>Summary:</u> The Council was at fault for cutting a care package on the basis of a flawed assessment.</p>	The Council had partially reassessed the package and increased the personal budget. It had also

Nature of decision	Remedy
.	arranged for an occupational therapist's assessment; had apologised and had paid £500 in recognition of distress
<p><u>Summary:</u> The Council failed in its duty to ensure that a child (unable to attend school for medical reasons) received any education.</p>	The Council had agreed a payment to recognise the loss of education and reviewed its procedures.

Conclusion

16. During the year, the Council's Access & Disclosure Team (which leads on LGO cases) met with the Directorate Leadership Teams of Adults and Children's Social care to commend and reinforce best practice and to ensure good complaints handling.

17. 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. However, given the number of complaints and enquiries received by the LGO, it suggests that the Council's complaints handling could be even more robust, enabling the vast majority of complaints to be resolved within existing procedures rather than at the LGO stage.

Nick Graham
Monitoring Officer

Contact Officer: Nick Graham
01865 323910

September 2019