

Divisions Affected – ALL

AUDIT AND GOVERNANCE COMMITTEE

18 September 2024

Local Government & Social Care Ombudsman - Annual Review Report

Report by the Director of Law & Governance and Monitoring Officer

RECOMMENDATION

1. The Committee is RECOMMENDED to receive and comment on the Local Government and Social Care Ombudsman's Annual Review of Oxfordshire County Council for 2023/24, and the work undertaken by the Council regarding its handling of complaints.

Introduction

2. Each year, the Local Government and Social Care Ombudsman (LGSCO) issues an Annual Review Report about each council. This relates to the complaints made to the LGSCO about the Council in the previous financial year. This report updates the Committee on this area of governance for the year 2023/4, reflecting on those complaints that were considered by the LGSCO up to 31 March 2024

Purpose of the LGSCO's Annual Letter

3. Under the Local Government Act 1974, the LGSCO has two main statutory functions:
 - To investigate complaints against councils (and some other authorities)
 - To provide advice and guidance on good administrative practice
4. The LGSCO records the following categories of information – which can be found contained within the Annual Review Letter:
 - a) Complaints and enquiries received - by subject area,
 - b) Decisions made (upheld, not upheld, advice given, closed after initial enquiries, incomplete/invalid and premature)

5. The purpose of the Annual Letter is to reflect to councils the number and nature of the LGSCO's dealings with complaints about that authority. The Annual Letter is at Annex 1.
6. In short, the Council saw a slight increase in the number of complaints upheld in 2023/24; 34 upheld in 2023/24 compared to 30 upheld in 2022/23.
7. 92% of Oxfordshire cases considered by the LGSCO were upheld, compared to a national average of 85% in similar authorities (County Councils). These statistics are based on a total of 37 full investigations into complaints about the Council, carried out by the LGSCO for the period between 1 April 2023 to 31 March 2024. Based on Oxfordshire County Council's population, this is 4.6 upheld decisions per 100,000 residents, (the average for similar authorities, is 4.5 upheld decisions per 100,000 residents).
8. In **100%** of cases upheld, the LGSCO were satisfied the Council had successfully implemented their recommendations. This is in line with an average of 100% in similar authorities (95% being the average compliance rate across all types of authority).
9. In **9%** of upheld cases the LGSCO found the Council had provided a satisfactory remedy before the complaint reached the Ombudsman. This relates to 3 satisfactory remedy decisions out of a total of 34 upheld decisions for the period between 1 April 2023 to 31 March 2024. This compares to an average of **7%** in similar authorities. This is an improvement on 2022/23 where the Council provided a satisfactory remedy in 7% of upheld cases. The Council will continue its focus on remedying complaints at the earliest opportunity.
10. Of the 34 upheld complaints where remedy was proposed by the LGSCO, 5 were recorded as *remedy completed late*. This is due to the Council not meeting the deadlines for completion agreed between the Council and the LGSCO.
11. This report explores these findings in more detail and sets them in the national context for county councils.

Summary of Complaints and enquiries received by the LGSCO

12. A total of 118 complaints were received by the LGSCO in relation to the Council. The LGSCO records the subjects of county council complaints as follows – with Oxfordshire County Council's numbers for 2023/24.

| By LGSCO category | Number of complaints received by the LGSCO |
|-----------------------------------|---|
| Adult care services | 22 |
| Education and children's services | 75 |
| Highways and transport | 11 |
| Corporate and other services | 9 |
| Other | 1 |

13. The Council's Children's services remain the highest service area receiving complaints with most relating to special educational needs and disability (SEND) and the handling and issuing of Education Health and Care Plans (EHCP).
14. This remains the national picture, with the Ombudsman, reflecting on this in her annual review. The Ombudsman recognises the strain on Special Educational Needs (SEN) and Disability Services highlighting the issues families face in obtaining the SEN support they are entitled to, and that action at a national policy level is needed and now.
15. Complaints to the LGSCO follow the statutory process for complaints 'Getting the Best from Complaints' and their outcomes are by their very nature the conclusion of events that have an historical time lag. The outcomes and report in the LGSCO Annual report 2023/24 are the result of a process of complaints that may well have stemmed and originated as far back as 2020/21 and have now reached their conclusion.
16. Regardless of this the Council takes the outcomes and impact upon individuals seriously and is committed to addressing these and accepts when it has not got things right and is compliant with remedies.
17. In the case of Children's Social Care complaints there are fewer referrals to the LGSCO, with many not meeting the criteria for investigation or being partially upheld. This is against a backdrop at any one time of approximately 5000 plus open children's cases and multiple interaction and decision-making points within those cases. Over a year, as many as 8000-9000 children may have received a service or intervention within children's social care. Every month there are approximately 3000 contacts/referrals to the Children's social care front door. The Council takes seriously any omission or deviation from process and adopts a restorative approach. Within the context of the volume of work and intervention, the Council is confident that in most situations the practice is appropriate, notwithstanding that on occasion and for individuals, as the LGSCO outcomes demonstrate, the Council sometimes does not meet its usual expected high standards. The Inspecting Local Authority Children's Services

(ILACS) Ofsted inspection in February 2024, confirmed that children's social care and education services were 'Good'.

18. The number of Stage 1 complaints received during 2023/24 regarding Children's Social Care was 92, which represents a very small proportion of all children the Council has allocated at any time during the course of a year.
19. The Council has been working hard to reduce the number of complaints and the time taken to respond at each stage, particularly at stage 1. To date, in 2024, the Council has seen a 53% reduction in stage 1 complaints at the end of Quarter 1 compared to Quarter 4 2023/24. The Council will continue to track this as the year progresses. This offers evidence of the work being undertaken to improve practice and timeliness/effectiveness of complaint responses.
20. The Service has undertaken training with all managers, led by senior managers and supported by the Council's Complaints team. This has focussed on how to investigate, understand outcomes sought and respond in a clear, restorative way to concerns raised. This approach is having an impact as the Council has seen a reduction in the number of complaints progressing to Stage 2 and onwards to Stage 3.
21. There were 17 requests for LGCSO consideration in 2023/24. Twelve of these were not investigated by the LGCSO for a range of reasons including:
 - a) The issues being raised were being resolved in care proceedings and therefore they would not get involved (6 cases);
 - b) The issue being raised was historical and out of their jurisdiction to consider (1 case);
 - c) The outcome would be no different if they did investigate (2 cases);
 - d) Insufficient evidence for the LGCSO to consider (1 case).
22. Of the five that were investigated, there were no significant themes across all of these. These LGCSO requests relate to original complaints processes that pre-date 2022, some complaints originate as far back as 2019. Children's Social Care has ensured all managers have received training to improve their investigations and responses to complaints at all stages. The Service track all complaints, on a weekly basis, to improve compliance with timescales.
23. During 2023/24 Children's Social Care has seen a reduction in the number of stage 1 statutory complaints, and this will impact on subsequent LGCSO referrals. The Service is resolving many more complaints at this level. In the same period, it has seen a corresponding reduction in Stage 2 complaints as a result of this work. It is expected that this will impact on the number of LGCSO referrals made as a result.

24. In respect of complaints to the LGSCO for education issues, these relate almost exclusively to SEND. Again, these are for the most part the conclusion of historical complaints originating prior to 2023/24. The work of the LGSCO in the Children's area of services relates almost entirely to the SEND arena and this is a common theme across Local Authorities. In the LGSCO national Annual Report, the complexity of this service provision is described.
25. There is no doubt that service improvements have been necessary with a 'Written Statement of Action' following inspection in 2017, and then the Local Area Partnership (of which the local authority is a part) was inspected by Ofsted/ CQC in July 2023.
26. The inspection in 2023 identified significant weaknesses across the SEND system including timeliness of EHCP assessments, number of tribunals and a range of other issues. A priority action plan responding to these weaknesses was approved by the Department for Education (DfE) in December 2023. The progress against the plan was reviewed by the DfE in July 2024 and the Council is currently awaiting the outcome of that review.
27. However, since July 2023, and against a backdrop of rising requests for EHCPs, the timeliness of EHCP assessment has increased significantly and as of June 2024 is above the national average. The increase in needs for SEND is higher in Oxfordshire this year than in the national picture, but the nature of issues of complaint mirrors the national picture. Significant work is being undertaken with schools to support them in meeting need through a range of initiatives such as Enhanced Pathways. This is coupled with the Council's plan to increase special school places by over 300 by 2026.
28. The Service has implemented training and the roll out of a relational approach to delivering services with staff to improve service delivery.
29. Given that the outcomes in the Annual Report of the LGSCO is considering past service issues stemming from the previous years, unfortunately the Council will not expect to see increased positive performance reported in the 2023/24 LGSCO Annual Report. Any decline in overall LGSCO complaints or complaints upheld or partially upheld, is expected once the service improvements undertaken by the partnership during the last 6-12 months and moving forward, begin to take effect. The Council would then expect to see the performance for Oxfordshire in the SEND area to be line with better performing Local Authorities.

Decisions made by LGSCO

30. The LGSCO carried out 37 investigations, 34 of which were upheld.

31. The cases upheld are summarised below in **Annex 2** with an indication of the outcomes in each case. All the remedies have been implemented. Where a financial remedy was recommended by the LGSCO, this was in accordance with its own published guidance on the circumstances in which a financial remedy may be appropriate (e.g. for time and trouble, delay or distress, or lost service provision).

Supporting complaint and service improvement

32. In February 2024, following a period of consultation, the LGSCO launched the Complaint Handling Code for councils, setting out a clear process for responding to complaints effectively and fairly. It is aligned with the Code issued to housing authorities and landlords by the Housing Ombudsman Service.

33. The LGSCO's successful complaint handling training programme continues to develop with new modules in Adult Social Care and Children's Services complaint handling available soon. In light of the complaints received about the Council, this new training will be communicated to relevant services when the LGSCO issues more information.

The Overall context of complaints received by the Council

34. The Council received 596 complaints during 2023/24. These are broken down as follows, set against the numbers for recent years.

| Type | 2023/24 | 2022/23 | 2021/22 |
|-----------------------------------|------------|------------|------------|
| Corporate (i.e. non-social care) | 328 | 379 | 321 |
| Adults Social Care Complaints | 127 | 134 | 117 |
| Children's Social Care Complaints | 141 | 144 | 140 |
| | 596 | 657 | 578 |

Actions taken by the Council

35. The action plan was reported to Committee as part of its 2022/23 LGSCO Annual Report. An update on these actions is set out as follows:

| Action | Update |
|---|---|
| a) Develop and implement a new Complaints Policy. The Policy will be launched in Quarter 2 and will involve a series of communications to promote the | The complaints policy is now live, and communications have been provided internally. The policy has been published on the public website. |

| | |
|---|--|
| <p>best practice approach across the Council.</p> | |
| <p>b) Introduce a quarterly 'Quality Assurance' approach with Directors and Heads of Service across Adult Social Care and Children's service to quality check a sample of complaints responses.</p> | <p>It was decided that this approach wouldn't be taken forward. Instead, the Complaints team have focused on encouraging services to contact complainants in the first instance and provide their response. This has seen an improvement in the quality of responses. The Complaints team continues to work with services to quality assure responses before they are sent to complainants.</p> |
| <p>c) Provide enhanced reporting on complaints in the Business Management and Monitoring Report (BMMR) to ensure learning from complaints corporately.</p> | <p>Complaint reporting is included in Unity (performance software) and the BMMR each month.</p> |
| <p>d) Continue to focus on providing training, improving communication and profile of complaints activity across the Council</p> | <p>In 2023-4 the focus was mainly on Children's Social Care. The Customer Feedback team provided training to the service around all stages of the complaints process. The Customer Feedback team are working towards providing more stage 2 children's statutory complaints process training to all in the Service. The Customer Feedback team will continue to provide training to services during 2024/25. Communication about complaints has improved within all service areas, and this is evident in the day-to-day work and timeliness of responses.</p> |

Areas of focus for 2024/25

36. The outcomes of the LGSCO's report indicate that there is still work to do in continuing to make improvements to the Council's own approach to complaints.

37. Action taken:

- a) The transfer of MP enquiries to the Customer Feedback team is now live. This provides a central contact point for MPs with constituents' enquiries. The focus now is around the process and data that can be provided to Strategic Leadership Team on these enquiries;
- b) Continue to work with services, including training and support;
- c) Explore the implementation of a new digitised system for recording complaints and MP enquiries.

Conclusion

26. The Council remains 100% compliant with Ombudsman recommendations for 2023/24, however, it needs to work to ensure all remedial actions are completed within the agreed timeframe.

27. The Ombudsman recognises the national strain on Special Educational Needs (SEN) & Disability Services and that action at a national policy level is needed and now. The Council expects its own service improvements undertaken by Children's Services to improve performance for Oxfordshire in the SEND area, bringing it in line with higher performing Local Authorities.

28. The Council will take learning from 2023/24 cases to further improve its complaint handling, through ongoing training and support, increasing the Council's rectification of complaints at the earliest opportunity, and reducing further the need for LGSCO intervention.

Financial implications

29. This report sets out the Local Government and Social Care Ombudsman's Annual Review of Oxfordshire County Council for 2023/24, and the work undertaken by the Council regarding its handling of complaints.

30. There are no financial implications arising directly from the report. However, the council's budget for 2023/24 included additional on-going funding of £0.5m for additional capacity in the SEN team to increase capacity for the handling and issuing of Education Health and Care Plans (EHCPs).

31. Where there were any more indirect service impacts in 2023/24 these were incorporated into the year - end position considered by Cabinet in June 2024.

Comments checked by: Kathy Wilcox, Head of Corporate Finance

Legal Implications

31. There are no legal implications arising directly from the report.

Comments checked by: Paul Grant, Head of Legal and Deputy Monitoring Officer

Staff Implications

32. There are no staff implications arising directly from the report.

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September 2024