

Report of Director

LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN: ANNUAL REVIEW LETTER 2017

1 Purpose of report

- 1.1. To advise members on complaints and enquiries made to the Local Government and Social Care Ombudsman (LG&SCO) for the year ended 31 March 2017.
- 1.2. Complaint handling is relevant to all services and council priorities within PRIDE.

2 Executive summary

- 2.1 Each year the LG&SCO provides a report on the complaints and enquiries he has received for the Borough Council of Wellingborough. The report provides information on the number and type of complaints and identifies where an investigation has been carried out by the LG&SCO with the outcome. The report is in the public domain via their website (www.lgo.org.uk) alongside the reports for all other authorities.
- 2.2 Details of current LG&SCO cases are routinely included in the report on customer feedback presented to this committee.

3 Appendices

- Appendix A – LG&SCO Annual Review Letter 2017
- Appendix B – clarification of terms

4 Proposed action:

The committee is invited to RESOLVE to note the report.

5 Background

Customer feedback is valued as a means to continuously review and improve the services delivered by and on behalf of the council. There are times, however, when the customer is unhappy with the outcome of the council's investigations and, having exhausted the council's complaints procedure, they have the right to refer to the LG&SCO for an independent review.

6 Discussion

- 6.1 During 2016-17 a total of ten complaints were made to the LG&SCO, on which decisions were made against nine. The remaining complaint has since been concluded in 2017-18 and will be included in our Annual Review letter for 2018. Of the nine decisions, five were referred back for local resolution and one was closed after initial enquiries.

- 6.2 Of the remaining three complaints these were dealt with as detailed investigations, which resulted in one being upheld and two being dismissed.
- 6.3 The upheld complaint related to a housing matter, the details of which were reported to this committee in July 2017 and related to the council's retention of a security bond on a property. Upon further review of the complaint and the evidence held, it was considered a part refund was reasonable and a remedy was offered to the complainant to settle the dispute; this was accepted and the matter concluded without further involvement of the LG&SCO. The council no longer offers a rent deposit bond scheme, however as a result of this complaint improvements have been made in the recording and retention of information relating to the council's financial liability for housing schemes.
- 6.4 In terms of complaints that are referred back for local resolution, these can generally be difficult to identify. This is because the LG&SCO does not normally involve the council but has directed the complainant to the council's complaints process. This is the case in four of the five complaints identified with this decision.
- 6.5 For comparative purposes, the council's Annual Review Letter for 2016 noted a total of 14 decisions on complaints being made by the LGO, of which six were made having conducted detailed investigations in consultation with the council, two of which were upheld. These included one for Planning and Building Control and one for Revenue and Benefits.
- 6.6 Naturally it would be preferable for the council to be able to resolve matters without the need for the involvement of the LG&SCO, however, there are no concerns as a result of the Annual Review letter for 2017.

7 Legal powers

The Local Government Act 1974 established the Local Government Ombudsman (LGO) for England and for Wales (now known as the Local Government & Social Care Ombudsman). The Act defines the main statutory functions:

- to investigate complaints against councils and some other authorities
- to investigate complaints about adult social care providers from people who arrange or fund their own adult social care
- to provide advice and guidance on good administrative practice

8 Financial and value for money implications

Ombudsman investigations may recommend a local settlement by the council or prove maladministration by the council, which may lead to compensation being paid to the customer. No compensation payments were made during 2016-17. As a result of one case, however, a remedy was considered reasonable by the council without the need for the LG&SCO to investigate the case any further. This resulted in the council refunding £400 of a £475 bond that had been withheld from the customer.

9 Risk analysis

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
Council proved negligent by the Ombudsman.	Potential compensation claim and negative reflection of the council.	Low.	Senior officers investigate or scrutinise all complaints/potential LGO referrals and take action to mitigate the escalation of complaints. Learn from previous errors.
Confidential information given out in error.	Contrary to the Data Protection Act.	Low.	Well trained employees with regular updates. Legal advice sought as required. LG&SCO correspondence reminds councils of confidentiality and what can be shared with complainants.
Council fails to take improvement opportunities identified by complaints.	Rising levels of dissatisfaction by customers.	Medium.	All feedback is measured within Corporate Support to identify lessons learnt. Service improvements are made as permitted by resources.

10 Implications for resources

Complaints naturally require officer time to carry out investigations and prepare evidence.

11 Implications for equalities

Monitoring customer feedback provides an important source of assurance that council services are fair, equitable and free from discrimination and harassment.

12 Author and contact officer

Karen Denton, Principal Corporate Support Manager

13 Consultees

Monitoring Officer
Senior Management Team

14 Background papers

Electronic files held within Corporate Support.
Customer files held within service areas.
LG&SCO Annual review letters for Wellingborough 2016 and 2017
(available via: <http://www.lgo.org.uk/information-centre/councils-performance>)

20 July 2017

By email

Liz Elliott
Managing Director
Wellingborough Borough Council

Dear Liz Elliott,

Annual Review letter 2017

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGO) about your authority for the year ended 31 March 2017. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

The reporting year saw the retirement of Dr Jane Martin after completing her seven year tenure as Local Government Ombudsman. I was delighted to be appointed to the role of Ombudsman in January and look forward to working with you and colleagues across the local government sector in my new role.

You may notice the inclusion of the '*Social Care Ombudsman*' in our name and logo. You will be aware that since 2010 we have operated with jurisdiction over all registered adult social care providers, able to investigate complaints about care funded and arranged privately. The change is in response to frequent feedback from care providers who tell us that our current name is a real barrier to recognition within the social care sector. We hope this change will help to give this part of our jurisdiction the profile it deserves.

Complaint statistics

Last year, we provided for the first time statistics on how the complaints we upheld against your authority were remedied. This year's letter, again, includes a breakdown of upheld complaints to show how they were remedied. This includes the number of cases where our recommendations remedied the fault and the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. In these latter cases we provide reassurance that your authority had satisfactorily attempted to resolve the complaint before the person came to us.

We have chosen not to include a 'compliance rate' this year; this indicated a council's compliance with our recommendations to remedy a fault. From April 2016, we established a new mechanism for ensuring the recommendations we make to councils are implemented, where they are agreed to. This has meant the recommendations we make are more specific, and will often include a time-frame for completion. We will then follow up with a council and seek evidence that recommendations have been implemented. As a result of this new process, we plan to report a more sophisticated suite of information about compliance and service improvement in the future.

This is likely to be just one of several changes we will make to our annual letters and the way we present our data to you in the future. We surveyed councils earlier in the year to find out, amongst other things, how they use the data in annual letters and what data is the most useful; thank you to those officers who responded. The feedback will inform new work to

provide you, your officers and elected members, and members of the public, with more meaningful data that allows for more effective scrutiny and easier comparison with other councils. We will keep in touch with you as this work progresses.

I want to emphasise that the statistics in this letter comprise the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, but who may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

The statutory duty to report Ombudsman findings and recommendations

As you will no doubt be aware, there is duty under section 5(2) of the Local Government and Housing Act 1989 for your Monitoring Officer to prepare a formal report to the council where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration or service failure, and where the LGO has conducted an investigation in relation to the matter.

This requirement applies to all Ombudsman complaint decisions, not just those that result in a public report. It is therefore a significant statutory duty that is triggered in most authorities every year following findings of fault by my office. I have received several enquiries from authorities to ask how I expect this duty to be discharged. I thought it would therefore be useful for me to take this opportunity to comment on this responsibility.

I am conscious that authorities have adopted different approaches to respond proportionately to the issues raised in different Ombudsman investigations in a way that best reflects their own local circumstances. I am comfortable with, and supportive of, a flexible approach to how this duty is discharged. I do not seek to impose a proscriptive approach, as long as the Parliamentary intent is fulfilled in some meaningful way and the authority's performance in relation to Ombudsman investigations is properly communicated to elected members.

As a general guide I would suggest:

- Where my office has made findings of maladministration/fault in regard to routine mistakes and service failures, and the authority has agreed to remedy the complaint by implementing the recommendations made following an investigation, I feel that the duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. In a small authority this may be adequately addressed through an annual report on complaints to members, for example.
- Where an investigation has wider implications for council policy or exposes a more significant finding of maladministration, perhaps because of the scale of the fault or injustice, or the number of people affected, I would expect the Monitoring Officer to consider whether the implications of that investigation should be individually reported to members.
- In the unlikely event that an authority is minded not to comply with my recommendations following a finding of maladministration, I would always expect the Monitoring Officer to report this to members under section five of the Act. This is an exceptional and unusual course of action for any authority to take and should be considered at the highest tier of the authority.

The duties set out above in relation to the Local Government and Housing Act 1989 are in addition to, not instead of, the pre-existing duties placed on all authorities in relation to Ombudsman reports under The Local Government Act 1974. Under those provisions, whenever my office issues a formal, public report to your authority you are obliged to lay that report before the council for consideration and respond within three months setting out the action that you have taken, or propose to take, in response to the report.

I know that most local authorities are familiar with these arrangements, but I happy to discuss this further with you or your Monitoring Officer if there is any doubt about how to discharge these duties in future.

Manual for Councils

We greatly value our relationships with council Complaints Officers, our single contact points at each authority. To support them in their roles, we have published a Manual for Councils, setting out in detail what we do and how we investigate the complaints we receive. When we surveyed Complaints Officers, we were pleased to hear that 73% reported they have found the manual useful.

The manual is a practical resource and reference point for all council staff, not just those working directly with us, and I encourage you to share it widely within your organisation. The manual can be found on our website www.lgo.org.uk/link-officers

Complaint handling training

Our training programme is one of the ways we use the outcomes of complaints to promote wider service improvements and learning. We delivered an ambitious programme of 75 courses during the year, training over 800 council staff and more 400 care provider staff. Post-course surveys showed a 92% increase in delegates' confidence in dealing with complaints. To find out more visit www.lgo.org.uk/training

Yours sincerely



Michael King
Local Government and Social Care Ombudsman for England
Chair, Commission for Local Administration in England

Local Authority Report: Wellingborough Borough Council
For the Period Ending: 31/03/2017

For further information on how to interpret our statistics, please visit our website:
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
0	1	2	0	2	0	4	1	0	10

Decisions made

Decisions made				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
0	0	5	1	2	1	33%	9

Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.
 The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
1	0

How complaints and enquiries were dealt with is explained below (as identified by LG&SCO):

- **Upheld:** These are complaints where we have decided that an authority has been at fault in how it acted and that this fault may or may not have caused an injustice to the complainant, or where an authority has accepted that it needs to remedy the complaint before we make a finding on fault. If we have decided there was fault and it caused an injustice to the complainant, usually we will have recommended the authority take some action to address it.
- **Not upheld:** Where we have investigated a complaint and decided that a council has not acted with fault, we classify these complaints as not upheld.
- **Advice given:** These are cases where we give advice about why LGO would not look at a complaint because the body complained about was not within the LGO's scope or we had previously looked at the same complaint from the complainant, or another complaints handling organisation or advice agency was best placed to help them.
- **Closed after initial enquiries:** These complaints are where we have made an early decision that we could not or should not investigate the complaint, usually because the complaint is outside LGO's jurisdiction and we either cannot lawfully investigate it or we decide that it would not be appropriate in the circumstances of the case to do so. Our early assessment of a complaint may also show there was little injustice to a complainant that would need an LGO investigation of the matter, or that an investigation could not achieve anything, either because the evidence we see shows at an early stage there was no fault, or the outcome a complainant wants is not one we could achieve, for example overturning a court order.
- **Incomplete/invalid:** These are complaints where the complainant has not provided us with enough information to be able to decide what should happen with their complaint, or where the complainant tells us at a very early stage that they no longer wish to pursue their complaint.
- **Referred back for local resolution:** We work on the principle that it is always best for complaints to be resolved by the service provider wherever possible. Furthermore, the Local Government Act 1974 requires LGO to give authorities an opportunity to try and resolve a complaint before we will get involved. Usually we tell complainants how to complain to an authority and ask them to contact it directly. In many instances, authorities are successful in resolving the complaint and the complainant does not recontact us.

Complaints Remedied

Where we find that an authority has acted with fault and this has caused an injustice to a complainant, we will make a recommendation about the action an authority should take to remedy that injustice. An Ombudsman's recommendations are not binding however most authorities comply with our recommendations without the need for any further action by the Ombudsman. We will also uphold a complaint that has come to us where the authority has already accepted during its own complaints processes that it acted with fault and it has offered what we consider to be a suitable remedy. The figures for 'complaints remedied satisfactorily by Authority before LGO involvement' demonstrate the number of times we have received complaints against an authority but it has already taken all the steps it needed to.