



Audit & Governance Committee
28 November 2022

Annual Complaints Performance Report

Purpose of the report:

To give the Audit & Governance Committee an overview of the Local Government and Social Care Ombudsman's annual letter for the year 2021/22 and an update on complaint handling across the council.

Recommendations:

It is recommended that:

The Audit & Governance Committee note the report.

Introduction:

1. The Local Government and Social Care Ombudsman (LGSCO) is the final stage for complaints about councils and some other organisations providing local public services. The Ombudsman issues an Annual Review letter in July to each local authority.
2. The Council has three complaints procedures: one for Adult Social Care, one for Education and Children's Services and one for all other Council services. The procedures for dealing with complaints about children's and adult social work services are set out in law. The corporate complaints procedure (covering all other Council services) is based on best practice.
3. The Adults statutory process has 1 stage then escalates to the Ombudsman. The Children's statutory process has 3 stages before escalation to the Ombudsman. For all other council services there are 2 stages, in line with best practise, before escalation to the Ombudsman. Pension complaints are dealt with through a separate complaints procedure and have a separate Ombudsman, The Pensions Ombudsman.

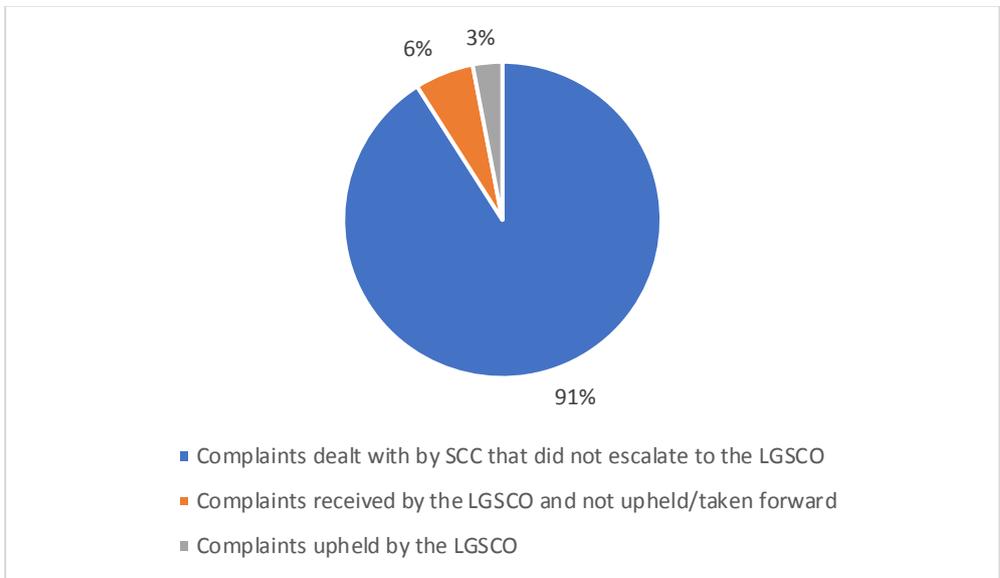
Background to complaints handling in Surrey County Council:

4. Effective complaint handling is critical to delivering good customer service and good outcomes for our residents. As well as putting things right when they go wrong, every complaint presents a potential opportunity to learn and improve and rebuild trust.
5. The volume of complaints does not in itself indicate the quality of the Council's complaint handling performance. Low complaint volumes can be a sign that an organisation is not open to receiving feedback.
6. The Ombudsman report focuses on three key areas which they consider help to assess the organisation's commitment to putting things right when they go wrong: complaints upheld; compliance with recommendations; satisfactory remedy provided by the authority. Finally they compare the three key annual statistics with similar authorities.
7. This year, the Ombudsman's report noted the Council's positive liaison with their office during the year. The annual letter stated that it is to the Council's credit that it has been proactive in providing them with timely, comprehensive and well organised responses to their enquiries.
8. The letter noted the Ombudsman's continued view that complaint functions have been under-resourced nationally in recent years, a trend only exacerbated by the challenges of the recent pandemic. Properly resourced complaint functions that are well-connected and valued by service areas, management teams and elected members are capable of providing valuable insight about an organisation's performance, detecting early warning signs of problems and offering opportunities to improve service delivery.
9. To improve elected member oversight of Ombudsman complaints, a process has been put in place to notify relevant Cabinet Members about LGSCO cases and decisions. The Chair and Vice Chair of the Audit and Governance Committee receive weekly reports on notification of complaint investigations by the Ombudsman and on final decisions. The three customer relations teams also provide quarterly updates.

Escalation to the Local Government & Social Care Ombudsman

10. Only a very small number of complaints escalate to the Local Government and Social Care Ombudsman. The vast majority are successfully resolved and responded to by the Council. The council is legally required to advise complainants of their right to escalate to the Ombudsman. This applies whether or not the complaint has been upheld under the council’s complaints procedure and remedies offered.

Figure 1: Escalation to the Ombudsman 2021/22



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11. In 2021/22, the Ombudsman received 163 complaints and enquiries about Surrey County Council; 9% of the total number of complaints received by the County Council. This was an increase from 2020/21 (8%). The Ombudsman issued 170 decisions in the year. See Annex 1 for a year-on-year comparison.

12. Education & Children’s and Adult Social Care are the two biggest categories of complaint to the Ombudsman for county councils and also for Surrey County Council as these are the most complex and emotive complaints. This year saw an increase in Education & Children’s complaints referred to the Ombudsman for SCC compared to the previous year, although the total number of children’s complaints was less than those for the year 2019/20. The next largest category for county councils is Highways & Transport. See Annex 2 for a year on year comparison.

13. 37% of the total number of enquiries the Ombudsman received about Surrey County Council progressed to an investigation. This reflects the emphasis on early resolution and alternative methods of resolution adopted within the three customer relation teams.

14. 76% of new escalation requests in Surrey Children’s Service have been resolved using Alternative Dispute Resolution (ADR). Under ADR,

telephone conversations and/or mediated meetings take place between complainants and officers from the Children's Customer Relations Team. These have enabled complaints to be discussed, and where required, plans agreed for moving forward. This could involve further mediated meetings or facilitated additional responses provided from the service. The route will vary depending on the nature of the complaint and the complainant's preferences. Where they have responded to the satisfaction of the complainant, the complaint is closed without escalation within the council or to the Ombudsman. This approach has been welcomed by the families involved.

Complaints upheld

15. Where the Ombudsman has upheld a complaint, this indicates fault on the part of the Council in delivering its services. The Ombudsman will record a decision of finding fault to ratify where the authority previously identified fault under its own complaint procedures.
16. The percentage of upheld complaints shows how frequently the Ombudsman finds fault with the council when they investigate. Of the 62 complaints that proceeded to detailed investigation, 52 were upheld (84%). This compares with an average of 71% for similar authorities. See Annex 3 for a year on year comparison of numbers of complaints upheld.
17. In 82% of the cases where the Ombudsman found fault, the complaint had already been upheld under the council's own complaint procedures. In some cases, the Ombudsman confirmed the remedy we had already offered the customer to resolve the complaint. In other cases, they recommended increased remedies.
18. 71% of the complaints upheld were categorised by the Ombudsman as Education & Children, 17% concerned Adult Social Care. The remaining 12% were categorised as Highways, Corporate & Other Services (coroners), Planning (planning enforcement) and Public Protection (complaint re anti-social behaviour by young person). See Annex 4 for a breakdown of upheld complaints by service and an overview of the top three areas of complaint for each category.
19. The majority of upheld findings relate to services within Children, Families and Life-long Learning. It is not unexpected that, due to the complexity of services about education and social care, the Ombudsman has agreed with the council's own findings of fault in 71% and 13% of cases they have considered. It is of note that over 90% of cases with fault are technical matters such as missed deadlines in assessment procedures for example that do not necessarily result in injustice for the service user. The outcome of the current internal audit of complaint functions within CFLL will inform future practice and resourcing which should have a positive impact on this figure going forward.
20. 17% of the complaints upheld related to Adults Social Care. The majority of these cases relate to disputes over delays to assessments or to charging for the costs of care and support. The Ombudsman upheld 70 per cent of the cases investigated about adult social care across all

councils – a figure higher than the 66% average uphold rate across all areas. The LGSCO recently published their annual review of Adult Social Care for the year 2021-22. This review found that care assessments, care planning and charging for care were key features of their cases and a common theme is councils failing to provide care, or limiting it, and justifying this because of the cost. They appreciated that budgets are becoming increasingly stretched but stated that authorities' duties under the Care Act remain. The review noted that all councils will be held to account for what they should be doing rather than what they can afford to do.

21. The Ombudsman may agree with the actions already put in place and/or may recommend additional remedies. Compliance with Ombudsman recommendations is tracked and monitored across the council. This has ensured a 100% compliance rate for the council.
22. The Ombudsman did not issue any public reports for Surrey County Council.

Learning from complaints

23. We aim to learn from upheld complaints to identify what went wrong and to put in place measures to make sure a similar situation does not happen again. Where complaints have previously been upheld within the council, corrective actions will have been identified and progressed. An example of this is the review and streamlining of the passport policy application process for Looked After Children after complaints were upheld about delays in the process. The Ombudsman's investigation agreed with the councils findings and proposed remedy actions. A further example is the review of processes concerning light touch assessments for Adult Social Care where complaint investigations identified that there were failures in the communication processes. As a result of this, communications were issued to all staff to amend letter templates for light touch assessments to ensure service users are aware of the right to request a full financial assessment should they be unhappy with the outcome of their assessment.
24. The majority of complaints contain an element that relate to failures of communication, or a failure to effectively manage expectations. This has particularly been evident following high volumes of complaints in areas such as school transport. The service has taken measures to review how it proactively communicates with residents, for example, increased use of the SMS (text) service to inform residents of challenges that may affect service delivery. In addition, Ombudsman training has been rolled out across the CFLL Directorate to improve the quality of initial complaint responses and promote an early resolution approach that includes proactive personal communications with residents by way of telephone calls or virtual meetings. Training has also been provided as part of the ETI Transformation programme on improving the quality of email and telephone responses to enquiries with an emphasis on getting it right first time.

25. Where there is a policy change which is likely to result in feedback from the public, the complaints teams will support services, advising on communications to explain the change in policy and answer likely frequently asked questions. An example of this is the introduction of an online portal that residents can use to share their concerns about Home to School Transport following a policy change earlier this year.

Financial Remedies

26. The Ombudsman can recommend financial redress if they find fault following an investigation. Financial redress was recommended in 75% of the cases upheld by the Ombudsman, a decrease from 79% the previous year.
27. For some financial remedies, the Ombudsman was ratifying or agreeing the remedy offered at the final stage of the Council's complaints procedure, or recommending additional payments. Before a complaint escalates, financial redress may be recommended where a fault has been identified, where appropriate. All financial awards are approved by the relevant Head of Service and, if greater than £1,000, in consultation with the relevant Cabinet Member.
28. All Ombudsman's decisions to award financial remedies are reviewed by the relevant complaints team. The teams work to identify those complaints where it would be appropriate to offer a similar remedy at the earliest possible stage of the complaints process. Remedies are decided on case by case basis in line with the Ombudsman's recommendations, taking into account the individual circumstances of the complaint.
29. For Children's & Education, £42,217.50 payments were directed by the LGSCO. Of the LGSCO directed payments £37,417.50 related to SEND and £4,800.00 related to Children's Social Care.
30. For Adult Social Care, the total paid was £14,085.32, which was a result of recommendations from the Ombudsman. The two largest of these included payments for the following two complaints:
- 1.1 A retrospective payment of £4,335.32, to pay for the hours claimed by the family to meet the client's eligible needs.
 - 1.2 A payment of £5,400 for the loss of support services and the impact this has had on the client.

Figure 2: Financial redress recommended by the LGSCO

FINANCIAL REDRESS PAYMENTS 2021/22	
Adult Social Care	£14,085.32
Children, Families & Learning	£42,217.50
Corporate	£700.00
Total	£57,002.82

Benchmarking

26. The Ombudsman annual statistics are a good benchmarking tool as it is a consistent, independent measure for complaint escalation for all local authorities in England and the Ombudsman is the same final stage for all complaint procedures.
27. The Ombudsman provides benchmarks against similar authorities within their annual letter and on their website. They benchmark on the percentage of complaints upheld, percentage compliance with Ombudsman recommendations, and the percentage of upheld complaints where they found that the Council had provided a satisfactory remedy before the complaint escalated to the Ombudsman. Annex 5 provides a summary benchmark against similar county councils showing numbers of detailed investigations with numbers of complaints upheld.
28. In Surrey, 37% of complaints referred to the Ombudsman progressed to detailed investigation. This compared to 66% for East Sussex, 32% for Essex, 29% for Hampshire, 35% for Hertfordshire and 40% for Kent.
29. For Surrey, 84% of complaints that the Ombudsman took forward for investigation were upheld. This was a decrease compared to the previous year (89%). In 82% of these cases, the complaint had been upheld under the council's complaint processes before escalation to the Ombudsman. The Ombudsman will uphold complaints when they find fault, even where the authority previously accepted fault before the Ombudsman investigated. The Ombudsman decision will state simply that the complaint is upheld; this does not reflect whether some elements of the complaint have not been upheld.
30. 84% is higher than the average of 71% in similar organisations, and compares to 66% for East Sussex, 77% for Essex, 83% for Hampshire, 76% for Hertfordshire and 68% for Kent.
31. The council achieved 100% compliance with Ombudsman recommendations which compares to an average of 100% in similar organisations. East Sussex, East Sussex, Essex, Hampshire, Hertfordshire and Kent all achieved 100% compliance.
32. In 12% of upheld cases, the Ombudsman found that the council had provided a satisfactory remedy before the complaint escalated the Ombudsman. This is above average, comparing to an average of 8% in similar organisations. This compares to 12% for East Sussex, 9% for Essex, 9% for Hampshire, 3% for Hertfordshire and 15% for Kent.
33. The customer relations teams are collaborating with other councils as part of wider benchmarking activities within Customer Services. Work is underway to gather comparative data with other councils that have been identified as a comparator by the Chartered Institute of Public Finance and Accountancy. An initial meeting has been held to agree parameters

for comparative data that all the local authorities present would find helpful in terms of benchmarking against each other. The exercise will be challenging as authorities record complaints and outcomes in different ways. We will update A&G moving forward on progress with this.

Mid-year update

34. The three customer relations teams regularly provide quarterly updates for their respective areas. For a summary of the first two quarter reports, see annex 6.

Conclusions:

35. The LGSCO annual letter this year is a positive one for the council that recognises the improved collaboration with the Ombudsman investigators. The Ombudsman has challenged councils at a national level to review their complaint resources across all areas. This is something that we will monitor and reflect on.

Financial and value for money implications

36. Payment of financial redress (as shown in Figure 2) is the financial implication of complaint handling. Responding to complaints quickly and getting issues resolved early ensures complaints do not escalate unnecessarily through the process and minimises the requirement to pay financial redress.

Equalities and Diversity Implications

37. Ensuring we maintain good complaint handling processes enables our service to remain accessible to all. We continually review ease of access to all three complaints procedures to ensure particular groups, and people with protected characteristics, are not disadvantaged in any way. Should an equality or diversity issue be identified through a complaint investigation, this will be addressed directly with the service concerned and remedial actions put in place. The learning will also be shared as part of the Council's commitment to equality, diversity, and inclusion.

Risk Management Implications

38. The complaints process does not have any direct risk management implications; however complaints do carry a risk to the council's reputation if not handled appropriately. We routinely review and report on complaints data to ensure our processes are effective and to minimise any risk.

Next steps:

39. The Audit & Governance Committee to receive information on operation of the Council's complaints procedures on an annual basis, supplemented with a mid-year update and separate report on the Local Government & Social Care Ombudsman's annual letter.

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Annexes:

- 1 SCC complaints and escalation to Ombudsman 2017 - 2022
- 2 Top 3 areas of complaint to the Ombudsman 2021/22
- 3 Detailed investigations and upholds 2021/22
- 4 Breakdown of upheld complaints 2021/22
- 5 Benchmarking 2021/22
- 6 Quarterly reports for first quarter 2022/23

Sources/background papers:

- Local Government & Social Care Ombudsman Annual Review Letter 2021/22 for Surrey County Council - available on their [website](#)
- Decision Notices available on LGSCO [website](#)

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