



Audit & Governance Committee  
22 November 2023

## LGSCO ANNUAL LETTER AND COMPLAINTS HANDLING UPDATE

### Purpose of the report:

To give the Audit & Governance Committee an overview of the Local Government and Social Care Ombudsman's (LGSCO) annual letter for the year 2022/23 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:

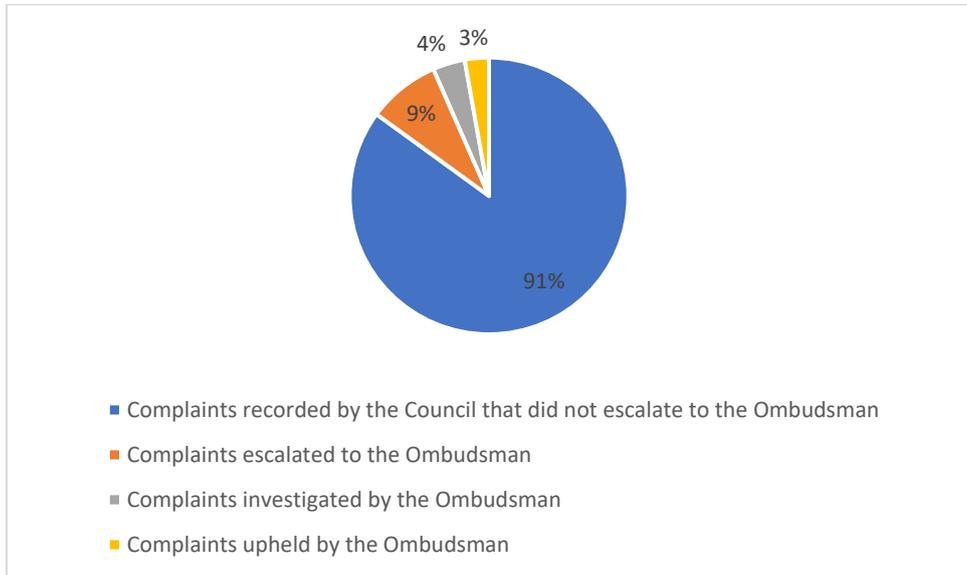
- 4 Effective complaint handling is critical to delivering good customer service and good outcomes for our residents. As well as putting things right when they go wrong, every complaint presents a potential opportunity to learn and improve and rebuild trust.
- 5 The volume of complaints does not in itself 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 *"investment in good complaint handling training and trust the courses were useful to you."* This recognised the Council arranging the LGSCO delivery of five training courses about Effective Complaints Handling.
- 8 The Ombudsman advised that it has changed how it selects cases for investigation and that this could adversely affect the statistics relative to complaints that were upheld. In practical terms this means that the percentage of upheld cases for the 2022/2023 fiscal year cannot be directly compared to previous years.
- 9 The Ombudsman issued one public report about the Council during 2022/23. This related to an acknowledged failure to deliver special educational provisions set out in a child's Education, Health and Care (EHC) plan between September 2020 and March 2022. The Ombudsman supported the Council's own investigation findings at the second stage of the local complaint process. The Council agreed the recommendations made which included a symbolic financial remedy to the child to catch up on missed education. The Council also agreed to improve its services to prevent recurrence of the faults by:
  - a. Reviewing its procedures for arranging and monitoring the delivery of provisions set out in EHC plans.
  - b. Reviewing its complaint handling in its Children and Education departments.
- 10 All actions were completed within the timeframe agreed with the Ombudsman.

11 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 continue to receive weekly reports on notification of complaint investigations by the Ombudsman and on final decisions. The three customer relations teams also provide weekly snapshots for the Leader and Chief Executive. These are supported with quarterly updates during the year.

**Escalation to the Local Government & Social Care Ombudsman**

12 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.

**Figure 1: Escalation to the Ombudsman 2022/23**



13 In 2022/23, the Ombudsman received 215 complaints and enquiries about Surrey County Council; 9% of the total number of complaints received by the County Council. This has remained static when compared to the previous year.

14 The Ombudsman issued 193 decisions in the year.

Total decisions issued	% Upheld	% Enquiries discontinued	% Not upheld
193	35%	55%	6%

- 15 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. These were primarily related to Education Services and focused on Education Health and Care Plans which totalled 120. Of these 45% were upheld by the Ombudsman.
- 16 37% of the total number of enquiries the Ombudsman received about Surrey County Council progressed to an investigation. This is the same as with the previous 12 months and reflects the emphasis on early resolution and alternative methods of resolution adopted within the three customer relation teams.

### **Complaints upheld**

- 17 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.
- 18 The percentage of upheld complaints shows how frequently the Ombudsman finds fault with the council when they investigate. Of the 81 complaints that proceeded to detailed investigation, 68 were upheld. Whilst this figure represents 84% of the complaints investigated; this percentage has remained static. This is reassuring given the Ombudsman's comments within the Annual Letter that their rate of upheld complaints will have been higher when compared to previous years due to the changes in their criteria. This compares with an average of 80% for similar authorities.
- 19 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. The symbolic financial remedies are distinct from reimbursement of costs incurred and amounts to cover provision that the Council would have been accountable for had it not made an error.
- 20 7% of the complaints upheld were categorised by the Ombudsman as relating to social care provision for Children, 72% concerned Education Services, 6% related to concerns about Home to School Transport and 15% were about Adult Social Care support. The Ombudsman did not uphold any of the complaints it considered about other Council Services.
- 21 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.

- 22 An example of this is the review of the Direct Payment Policy for Childrens Services, specifically for children and young people with Additional Needs and Disabilities. The policy has been revised to ensure that families are aware of the expectation that they consider the guidance and advice on the Local Offer page before applying to vary a Direct Payment agreement.
- 23 The Council also revised the Home to School Transport Policy and restructured the team to ensure that officers are more accessible with a focus on early resolution. The benefits of this change will be assessed to inform the Annual Complaints Report in 2024. The Ombudsman's investigation agreed with the councils' findings and proposed remedy actions.
- 24 A further example is the review where a complaint investigation identified that the Council failed to assess Deprivation of Liberty Safeguards (DoLS) requests in accordance with the timescales set out in the Mental Capacity Act regulations. In response Adult Social Care is undertaking a data cleanse of outstanding DoLS assessments, has commissioned an agency to undertake 500 DoLS assessments and is reviewing the size and structure of the DoLS team to ensure it is sustainable for the future.
- 25 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.

### **Financial Remedies**

- 26 In customer relations we distinguish between what we consider to be a financial remedy (as defined in the remedy guidance published by the LGSCO) and compensation. We understand that whatever we call 'it', the sums of money that the council has paid in the past 12 months to remedy injustice arising from fault or maladministration, is significant. In the year 2022/2023 the Council paid £258,730.53. Of this, the Ombudsman made recommendations for financial remedies totalling £124,401.95. The larger proportion of the LGSCO directed remedies relate to Education Services, specifically Additional Needs and Disabilities (SEND) Services which made up 80% of the LGSCO directed financial remedies.
- 27 67% of the total remedies made relate to reimbursement of costs incurred and payment for missed provision, primarily the delivery of appropriate education to meet assessed needs. Examples of these include LGSCO directed payments of between £400.00 and £600.00 per month of missed education pending the issue of an EHCP or appropriate provision being named in an EHCP. The costs incurred element includes but is not limited to reimbursed cost of home to school transport whilst contracted transport was put in place, reimbursement of education costs incurred such as tutoring pending a formal education placement as well as reimbursement of costs to cover the delivery of therapy treatment.

- 28 This leaves 33% of the total remedies paid as being a form of 'compensation' for contributions made to distress, anxiety and uncertainty that customers may have experienced as consequence of any acknowledged errors and omissions.
- 29 £99260.95 of the LGSCO directed payments related to Education Services, including a payment of £10298.00 which included elements of missed education and delay.
- 30 £19341.00 of the LGSCO directed remedy payments related to Children's Social Care. £15000.00 was a single payment, relative to an acknowledged delay in the age assessment for an asylum seeking minor, which had a negative impact on the support provided.
- 31 A single payment of £4800.00 related to the impact of delayed provision in terms of the young person accessing appropriate education. The LGSCO directed £6000.00 total remedy payments associated with Home to School Transport.
- 32 The Ombudsman directed a payment of £1550.00 as a financial remedy for concerns about Adult Social Care Services.
- 33 For some financial remedies, the Ombudsman agreed with the remedy offered at the final stage of the Council's complaints procedure. In other instances, the Ombudsman recommended an increased financial remedy.
- 34 In Education services part of the financial payments recommended relate to the reimbursement of costs incurred because of missed education for children and young people.
- 35 In Childrens Services several of the symbolic financial remedies relate to support to access services for children with additional needs.
- 36 All financial awards are approved by the relevant Head of Service. The Leader and relevant Cabinet member are informed if the total financial payment is £1000 or more.

**Figure 2: Financial redress recommended by the LGSCO**

LGSCO Directed Remedy Payments	2021/22	2022/23	Direction of Travel
Adult Social Care	£14085.82	£1550.00	
Children, Families & Learning	£42,217.50	£123,401.95	
Corporate	£700.00	None Directed	
<b>Total</b>	<b>£57,003.82</b>	<b>£124,951.95</b>	

## Benchmarking

- 37 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.
- 38 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.
- 39 For Surrey, 84% of complaints that the Ombudsman took forward for investigation were upheld. This has remained the same when compared to the previous year. 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.
- 40 84% is slightly higher than the average of 82% in similar organisations, and compares to 77% for East Sussex, 79% for Essex, 83% for Hampshire, 82% for Hertfordshire and 87% for Kent. It is of note that the percentages upheld have increased for all the similar local authorities named above, when compared to the previous year. It is recognised that most of the upheld findings relate to services within Children, Families and Life-long Learning.
- 41 Education Services have responded positively to this feedback and created a customer service steering group which meets monthly. The membership of the group includes senior officers in Education as well as the CFLL Customer Relations Manager. The aim is to use the feedback gathered from complaints to inform improvements in the customer journey as well as informing changes to service delivery as necessary and appropriate. Focus to date includes improving the standards of communication between the service and the customer as well as reviewing some of the statutory duty about children missing education due to Health or other issues.
- 42 Education Services continue to be challenged by the recognised national difficulties in securing appropriate Education Psychology reports to inform Education Health and Care Needs Assessments which determine whether a child should be placed on an Education Health Care Plan. This is contributing to delays in completing the Needs Assessment process leading to added volumes of complaints from families. A significant volume of these concerns are being brought to the attention of the Local

Government and Social Care Ombudsman. This is leading to increasing volumes of financial remedies which can have a negative impact on the Council's reputation.

- 43 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.
- 44 In 9% 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 6% in similar organisations. This compares to 2% for East Sussex, 2% for Essex, 6% for Hampshire, 0% for Hertfordshire and 8% for Kent.
- 45 The customer relations teams are working 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 group has established that the comparison of data is more challenging than previously anticipated as not all authorities capture data in the same way or about the same things.
- 46 In Surrey we have an Early Resolution programme that aims to resolve enquiries before they become formal complaints. In some authorities these are not recorded. In Surrey we record complaints as being about the service they relate to, irrespective of which complaint process is used. For example, a complaint about a breach of personal data that relates to social care for children would be recorded as being about children's services. In some other authorities these are captured as being about 'other' or 'corporate' services. We are continuing to explore how we can realistically draw meaningful comparative data and will update A&G moving forward on progress with this.

### **Conclusions:**

- 47 The LGSCO annual letter this year is a positive one for the council that recognises the improved collaboration with the Ombudsman investigators and the challenges faced by councils at national levels. This is something that we will monitor and reflect on.

### **Financial and value for money implications**

- 48 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

49 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 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

50 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.

<b>Next steps:</b>
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51 The Audit & Governance Committee to receive information on the 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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### Sources/background papers:

Local Government & Social Care Ombudsman Annual Review Letter 2022/23 for Surrey County Council - available on their [website](#)  
Decision Notices available on LGSCO [website](#)

### Annexes:

None

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