



## **CORPORATE GOVERNANCE COMMITTEE – 6 December 2024**

### **JOINT REPORT OF THE CHIEF EXECUTIVE AND THE DIRECTOR OF CORPORATE RESOURCES**

#### **LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN ANNUAL REVIEW 2023/24**

##### **Purpose of Report**

1. The purpose of this report is:
  - To inform Members of the Local Government and Social Care Ombudsman (LGSCO) annual review letter for the Authority for 2023/24.
  - Provide Members with an update on improvements to the Local Authority's Complaints procedures and effective complaints handling.

##### **Background**

2. The role of the Corporate Governance Committee includes the promotion and maintenance of high standards within the Authority in relation to the operation of the Council's Code of Governance. It also has within its terms of reference the making of payments or providing other benefits in cases of maladministration under Section 92 of the Local Government Act 2000.
3. At its meeting on 29 November 2009 this Committee, in line with its role and responsibilities, and those of the then existing Standards Committee, agreed that reports on complaints handling should be submitted on an annual basis for members consideration following receipt of the LGSCO's annual review letter. This report also discharges the Monitoring Officer's statutory duty under s.5(2) of the Local Government and Housing Act 1989 to report where maladministration has been identified.
4. The LGSCO produces an annual review letter for each Authority. This typically contains complaint statistics as well as more general updates from the LGSCO as to any emerging themes. This letter is included as Appendix A.

5. In recent years, the LGSCO has also issued an annual review of local government complaints each year. A copy of the 2022-23 report is included as Appendix B.

### **Part 1: LGO's Annual Review Letter for Leicestershire County Council**

6. A total of 104 Complaints and Enquiries were received by the LGSCO during the year 2023/24 which marks a decrease (8%) on last year 2022/23 (117).
7. The number of LGSO decisions decreased from 127 in 2022/23 to 96 in 2023/24. 29 of these decisions were that the complaint was premature.
8. The Ombudsman carried out 35 detailed investigations during the year. This equates to 33% of the complaints determined. The numbers investigated in detail by the LGSCO decreased this year by three.
9. The remaining 69 cases were dealt with at the assessment stage, which is a lighter touch review of the Council's actions. This includes complaints that were considered to be outside of the Ombudsman's jurisdiction as well as those where it was clear the Council had acted appropriately. These complaints covered all different service areas, however, the majority did relate to Education and Children Services 67%, whilst 24% related to A&C and 9% related to Environment & Transport
10. Of the 35 complaints subject to detailed investigation, 29 (83%) had a finding of some fault and were consequently upheld. This is a slight increase from last year (81%).
11. Where a finding of fault with injustice is made, the LGSCO may suggest a course of action to the Council which, if implemented, would lead the LGSCO to discontinue their investigation. The Council is not obligated to carry out this recommendation but failure to do so may lead to a Public Report being issued.
12. Such settlements may involve an element of compensation for a complainant where there has been a failure to provide a service, together with a payment to recognise the complainant's time and trouble in having to pursue the complaint.
13. On some occasions, the Council may have already taken remedial action which the LGSCO considers appropriate to resolve the issue. In such cases, the LGSCO will still record the case as maladministration but with an additional tag to reflect that the situation had been adequately remedied before LGSCO involvement.
14. No LGSCO decisions were issued as Public Reports during the 2023-24 reporting year.

15. The detail for each of the 29 upheld complaints appears below. For ease these have been grouped by Council Department.

### **Chief Executive**

- **Case 1** related to the Council's dealings and communication regarding a role as a host for guests under the Government's Homes for Ukraine scheme. The Ombudsman found fault by the Council in its communication about its decision on suitability as a host.

A Remedy payment of £1,700 was made in addition to arrange a face-to-face meeting to further discuss the council's decision.

### **Children Family Service – Special Education**

- **Case 2** related to Special Education Needs (SEN) and specifically how the council has failed since January 2021 to provide education consistently or ensure the special educational provision listed in a Education and Health Care Plan (EHCP) that was put in place.

The Ombudsman found several failings including a failure to retain annual review documents and lack of adherence to statutory timescales.

The Council made a remedy payment of £5729.

- **Case 3** related to delays in carrying out an annual review of an Education and Health Care Plan (EHCP). The Council delayed identifying a school. The Ombudsman found the Council delayed in issuing an amended EHCP with a suitable school following the annual review. The Council also failed to provide alternative education.

The Council apologised and made a remedy payment of £2,850 to remedy a loss of education and an additional £500 in respect of trouble and distress.

- **Case 4** related to delays with the Education and Health Care Plan (EHCP) and complaints processes.

The Council remedied in line with Ombudsman guidance by making a remedy payment of £100.00 per month outside of statutory timescales, totalling £300.00

- **Case 5** related to how the Council engaged with mediation about its refusal to assess a child's special educational needs. There was fault in how the Council responded to the request for mediation

The Council apologised and made a remedy payment of £200.00

- **Case 6** related to the Council failure to secure the provision set out in an Education and Health Care Plan (EHCP). Case also related to the

Council's failure to properly review the EHC Plan and poor communication. The Ombudsman found fault in delays in reviewing the EHC Plan and completing its reassessment.

The council apologised for delays caused and made a remedy payment of £2,100.00

- **Case 7** related to the Council's failure to amend an Education and Health Care Plan (EHCP) following an annual review in January 2022. Case also related to the council's failure to respond to emails and calls and delayed response times to complaints.

The Council apologised and made a remedy payment of £1,800.00

- **Case 8** related to delays completing an Education, Health and Care (EHC) needs assessment in line with statutory timescales. The Council failed to issue an EHC plan within the statutory timescale, caused by a delay in obtaining Educational Psychologist advice.

The Council apologised and offered remedy payment in line with the ombudsman guidance of £100.00 per month outside of the statutory timescales, totalling £400.00.

- **Case 9** related to the Council's failure to respond appropriately to a complaint about officer conduct, the Council was responsible for a breach of a child's data and that the Council failed to adhere to the agreed wording for an Education, Health and Care Plan (EHC plan) ordered by a Tribunal. The Ombudsman found there was fault in the council's complaint handling, and it failed to initially adhere to the agreed wording for the EHC plan.

The council apologised and made a remedy payment of £480.00 in addition to covering legal costs of £1,663.15.

- **Case 10** related to delays carrying out an Education Health and Care needs assessment.

The Council apologised and offered remedy payment in line with the ombudsman guidance of £100.00 per month outside of the statutory timescales, totalling £400.00

- **Case 11** related to fault in the way the council dealt with an Education Health and Care Plan following an annual review.

The Council apologised and offered remedy payment of £800.00

- **Case 12** related to the Council's failure to provide suitable education and delays in completing an education, health and care needs assessment.

The Council apologised and offered remedy payment of £400.00

- **Case 13** related to how the council handled an Education, Health and Care plan annual review and poor communication. The Ombudsman found fault that the Council delayed completing a review and that its communications were unsatisfactory.

The Council apologised and offered remedy payment of £1,900.00

- **Case 14** related to delays during the Education, Health and Care needs assessment.

The Council apologised and offered remedy payment in line with the ombudsman guidance of £100.00 per month outside of the statutory timescales, totalling £546.43

- **Case 15** related to the Council taking too long to issue an Education, Health and Care plan. Case also related to not being provided with a suitable education. The Ombudsman found there was delay and failure to establish suitable education.

The Council apologised and offered remedy payment of £100.00

- **Case 16** related to the council's decision to suspend special educational needs transport with immediate effect and no warning

The Council apologised and offered remedy payment of £350.00

- **Case 17** related to delays during the Education, Health and Care needs assessment.

The Council apologised and offered remedy payment in line with the ombudsman guidance of £100.00 per month outside of the statutory timescales, totalling £500.00.

- **Case 18** Similar to above related to delays during the Education, Health and Care needs assessment. The Council delayed the assessment.

The Council apologised and offered remedy payment in line with the ombudsman guidance of £100.00 per month outside of the statutory timescales, totalling £678.57

- **Case 19** again related to how the Council handled a Health, and Care Plan assessment. The Council's failures caused avoidable stress. The Council was at fault for the delays in assessment, securing a school place and responding to the complaint.

The Council apologised and offered remedy payment in line with the ombudsman guidance of £100.00 per month outside of the statutory timescales, totalling £500.00

- **Case 20** related to the Council causing delays in its Education, Health and Care Needs Assessment, failure to agree a necessary education provision budget and failure to provide provision under section 19.

The Council apologised and offered remedy payment of £2,950.00.

### **Children and Family Services – Social Care**

- **Case 21** related to historic physical and sexual abuse when complainant was a child in care and about the way the Council dealt with the complaint.

There was fault in complaint handling which has caused injustice to complainant. The Council agreed to reconsider the complaint at stage two of the statutory children's complaint procedure.

- **Case 22** related to the Council's significant delays in the process to adopt causing significant stress

The council agreed to make a remedy payment of £700 in recognition of distress caused

- **Case 23** related to the Council's statutory complaints investigation in relation to a child. The Council was at fault as it delayed writing to and explaining its reasons which led to a safeguarding investigation which caused frustration.

The Council remedied this by apologising and the Ombudsman agreed this was appropriate

- **Case 24** related to how a fostering agency, dealt with allegations made about them as foster carers. The Council did not properly consider new information about these allegations, after the agency admitted its investigation had been poor.

The council agreed to make a remedy payment of £500 in recognition of distress caused

- **Case 25** related to the way the Council considered a complaint about how it supported a child. The Council failed to properly consider the complaint properly, and did not have due regard to its duty under the Equality Act.

The Council should made a remedy payment of £1000.00.

### **Adults and Communities – Social Care**

- **Case 26** related to the Council's decision to include the value of her the person's mother's property as notional capital when assessing her finances for social care. No fault was found with the Council's decision making; however, fault was found in delays in making a decision.

The council apologised and paid £250.00 in recognition of the delay in hearing the appeal against the Council's decision to include assets as notional capital.

- **Case 27** related to an invoice being sent after the council confirmed no further invoices would be sent, causing the complainant distress.

The council apologised for any distress caused, no further remedy was instructed by the LGO

- **Case 28** related to the way the Council charged care home fees, initially for respite. Complaint specifically related to delay, an officer's attitude and not giving timely advice.

The council apologised and paid £300.00 in recognition of the distress caused.

- **Case 29** related to the quality of home care from 2M Health & Home Care Services, arranged by the Council. The Ombudsman found fault as the care provider failed to monitor health, or to record or report any concerns and failed to seek medical attention. This caused significant distress and uncertainty.

The Council agreed to ensure further training was provided to staff from 2M Health & Home Care Services

### **SUMMARY**

16. The LGSCO produced no public reports against the Council during 2023/24.
17. Financial remedies determined by the LGO amounted to £24,656. This is a significant decrease from last year (£68,495).
18. All the above financial settlements were approved by the Director of Law and Governance, in accordance with powers delegated by this Committee at its meeting on 26 November 2012.
19. The LGSCO continues to promote an interactive map of the Council's performance and allows for easy access and comparison of the data presented in this report with other authorities. This can be accessed on the following link - [Councils Performance](#)

### **Part 2: Update on Complaints Handling**

20. The Council has a statutory duty to produce an annual report on both children and adult social care complaints.
21. The Council also produces a Corporate Complaints Annual report which considers all other non-statutory complaints.

22. Collectively these reports highlighted the following key themes and performance:

### **Corporate Complaints**

#### **Complaints received and outcomes (2022-23) comparative data is in brackets)**

- During 2023-24 1,112 Corporate complaints were received (781) – a 42% increase
- 519 Corporate complaints were upheld - which is 47% of the total received (51%)

### **Response times**

23. During 2023-24, complaint response times at Stage 1 showed some improvement from 2022-23. There remained some pressures however particularly around SEN complaints.

#### **Stage 1**

- 48% of all complaints received a response within 10 working days
- 76% received a response within 20 working days
- 90% received a response within the maximum 40 days recommended by LGSCO

#### **Stage 2**

- 61% of all complaints received a response within 20 working days

### **Issues most frequently complained about**

- The top five issues complained about were as follows

SEN Assessment	285
SEN and School Transport	149
School Admissions	109
Waste Management	60
Grass Cutting	49

### **Adult Social Care Statutory Complaints**

- There were 382 adult social care complaints recorded in 2023-24, a significant increase of 87% on 2022-23 (204).



- Response times for social care complaints improved this year with 79% responded to within 20 working days. This is a good improvement on last year (68%)
- Fault was found in 37% of complaints. A slight reduction from last year (38%).

### **Children's Social Care Complaints**

- A total of 81 Stage 1 complaints were accepted, a slight decrease from 86 in 2022-23.
- The Council continues to assess complaints against the statutory guidance and practitioner guidance issued by the Local Government and Social Care Ombudsman in determining eligibility to the statutory procedure. This is important to control costs incurred through independent investigation.
- 129 Children's Social Care complaints were handled under the Corporate Complaints procedure.
- Of the 81 complaints considered at Stage 1, 9 requested escalations to Stage 2 (Independent Investigation) equating to 9.8%. Of these, 5 requested further escalation to Stage 3 of the process (Panel Review).
- Response times for Stage 1 complaints showed improvement with adhering to statutory timescale of 20 working days with 63% achieving this.

### **Improving Complaint Handling**

24. The complaints team continues to work closely with departments to discuss responses to complaints and act as a critical friend.
25. There have been minor policy amendments made this year to our corporate complaints procedure. This was to more clearly define timescales for the Stage 2 "Review" stage.
26. In house Complaints Investigators continue to support SEN and Children's Social Care and this is working well.

### **Recommendations**

27. The Committee is recommended to:
  - (a) note the contents of this report.

- (b) provide comment and feedback on the LGSCO's annual review letter and the complaints and FOI handling arrangements and improvements as outlined.

### **Equality and Human Rights Implications**

28. An Equality and Human Rights Impact Assessment was completed in 2014. There have been no significant changes to the complaints handling process since this time.

### **Background Papers**

Report to the Scrutiny Commission dated 10 June 2024 'Corporate Complaints and Compliments Annual Report 2023/24'

<https://democracy.leics.gov.uk/documents/g7444/Public%20reports%20pack%20Monday%2010-Jun-2024%2010.00%20Scrutiny%20Commission.pdf?T=10>

Report to Adults and Communities Scrutiny and Overview Committee dated 2 September 2024 'Annual Adult Social Care Complaints and Compliments Report'

<https://democracy.leics.gov.uk/documents/g7818/Public%20reports%20pack%20Monday%2002-Sep-2024%2014.00%20Adults%20and%20Communities%20Overview%20and%20Scrutiny%20Committ.pdf?T=10>

Report to Children and Families Scrutiny and Overview Committee dated 3 September 2024 'Children's Social Care Statutory Complaints and Compliments Annual Report 2023-24'.

<https://democracy.leics.gov.uk/documents/g7480/Public%20reports%20pack%20Tuesday%2003-Sep-2024%2014.00%20Children%20and%20Families%20Overview%20and%20Scrutiny%20Committ.pdf?T=10>

### **Circulation under the Local Issues Alert Procedures**

None.

### **Officers to contact.**

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**List of Appendices**

Appendix A: The Local Government and Social Care Ombudsman's Annual Review Letter dated 17 July 2024 – Leicestershire County Council – for the year ended 31 March 2024.

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