

Cabinet Member (Policy and Leadership)
Audit and Procurement Committee

5 September 2014
20 October 2014

Name of Cabinet Member:

Cabinet Member (Policy and Leadership) Councillor Mrs Lucas

Director Approving Submission of the report:

Chief Executive

Ward(s) affected:

Nil

Title:

Complaints to the Local Government Ombudsman 2013/14

Is this a key decision?

No

Executive Summary:

The Local Government Ombudsman (LGO) provides an independent means of redress to individuals for injustice caused by unfair treatment or service failure by a local authority. As part of the Council's complaints process complainants are informed of their rights to contact the LGO if they are not happy with the Council's decision.

The Cabinet Member Community Safety and Equalities at the meeting of 27 March 2014 decided that the number and outcome of complaints received by the LGO about the Council would be formally reported to elected members through the Cabinet Member (Policy and Leadership). This is the first such report and covers complaints over the period 1 April 2013 to 31 March 2014.

In July 2014 the Ombudsman issued her Annual Letter to the Chief Executive to summarise complaints dealt with during the year. A report "Review of Local authority complaints" was also published on the LGO web pages, this has helped to compare Coventry's performance with national trends.

Recommendations:

The Cabinet Member is recommended to:

- (1) Consider the Council's performance in relation to complaints to the Local Government Ombudsman.
- (2) Request the Audit and Procurement Committee to:
 - Review and be assured that the Council takes appropriate action in response to complaints investigated and where the Council is found to be at fault.
 - Advise on the timing and focus for future reports to help to ensure that the Council learns from complaints.

The Audit and Procurement Committee is recommended to:

- (1) Consider the Council's performance in relation to complaints to the Local Government Ombudsman.
- (2) Review and be assured that the Council takes appropriate actions in response to complaints investigated and where the Council is found to be at fault.
- (3) Advise on the timing and focus for future reports to help to ensure that the Council learns from complaints.

List of Appendices included:

Appendix A: Summary of complaints investigated by the LGO – upheld/not upheld

Other useful background papers:

Local Government Ombudsman – Review of local government complaints 2013/14

<http://www.lgo.org.uk/news/2014/jul/ombudsman-publishes-local-authority-complaint-statistics-new-report/>

Cabinet Member Community Safety and Equalities 27 March 2014 – Reporting Ombudsman Complaints and Reports

<http://democraticservices.coventry.gov.uk/documents/s15781/Reporting%20of%20Ombudsman%20Complaints%20and%20Reports.pdf>

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

Yes

Audit and Procurement Committee – 20 October 2014

Will this report go to Council?

No

Report title: Complaints to the Local Government Ombudsman 2013/14

1. Context (or background)

- 1.1 The Local Government Ombudsman (LGO) offers an independent, impartial and free service to any member of the public dissatisfied with the way that a Council has dealt with their complaint. The Council advises complainants that they have the option to contact the Ombudsman once the Council’s own complaints process has been exhausted.
- 1.2 This report provides elected members with information about the number and outcome of LGO complaints received and investigated about the Council during 2013/14. It also provides more detail on those complaints which were investigated by the Ombudsman during 2013/14 including the actions taken by the Council where a complaint was upheld by the Ombudsman.

2. Options considered and recommended proposal

- 2.1 Each year the Ombudsman writes to the Chief Executive through the Annual Review Letter, this was received in July 2014. The letter includes summary statistics for 2013/14 and shows that the Ombudsman recorded 108 enquiries relating to Coventry City Council which differs slightly from the figures recorded by the Council (90). The LGO has clarified that some enquiries will result in advice being given without the need for contact between the Ombudsman and local authority. There are also some differences in the classification of complaints which explains the difference between the recorded figures.

Adult care services	Benefits & tax	Corporate & other services	Education & children’s services	Environmental services & public protection & regulation	Highways & transport	Housing	Planning & development	Total
13	26	5	25	14	11	8	6	108

Table 1: Summary statistics enquiries received by the Ombudsman about the Council: Ombudsman Annual Letter to the Chief Executive July 2014 <http://www.lgo.org.uk/documents/annualreview/2014/Coventry%20City%20Council.pdf>

- 2.2 It is not possible to comment on the Council’s performance based purely upon the number of enquiries that the Ombudsman receives about the Council. On one hand it could be argued that a high number of complaints would indicate that an authority has been effective at signposting people to the LGO through their complaints handling process, on the other a high number of complaints could also highlight that an authority needs to do more to resolve issues through its own complaints process.
- 2.3 Of all cases recorded the LGO investigated 19 complaints about Coventry in 2013/14, 10 (53%) of these were upheld and 9 (47%) not upheld. One upheld complaint resulted in a formal report of maladministration being issued by the Ombudsman.

LGO decision classifications have changed during 2013/14 and the following has been provided by the LGO.

Upheld: These are complaints where we (the LGO) 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.

Wherever possible the LGO publishes decision statements on its web pages although this would not happen where the content of the report could identify the individual complainant. For Coventry there were three decision statements posted for 2013/14.

- 2.4 The 19 complaints investigated by the LGO in 2013/14 related to the following service areas.

Service Area	Upheld	Not upheld	Average Initial Response Time (Working days)
Adult social care	3	2	16
Children's social services	4	1	24
Education services	1	1	18
Housing services		1	19
Bereavement services		1	20
Highways services		1	23
Planning		1	19
Benefits	2	1	12.5
Total	10	9	19.4 (average)

- 2.5 The LGO report "Review of Local Government Complaints 2013/14" notes that the number of complaints nationally received by the LGO had remained fairly static over the last year. Complaints about benefits and tax and adult social care were the two areas where they had seen the biggest percentage increase on last year. It has not been possible to compare Coventry complaints with the previous year 2012/13 as there were no annual figures provided by the LGO, this was due to changes in the way in which complaints were classified. During 2013/14 the Council had the most investigations in Adult Social Care and Children's Social Services with Benefits the third highest. For Adult Social Care and Children's Social Services separate reports will be presented to the relevant Cabinet Members later in 2014.
- 2.6 More detail on the outcome of the complaints investigated including for those upheld, the action taken by the Council and any compensation paid, is attached in a separate table (Appendix A). The Council has taken a range of actions to respond to the fault identified. Most often this has involved issuing guidance and training for staff so that they are clear on processes and to avoid the same problem recurring. Members of the Audit and Procurement Committee are asked to review the actions taken and to comment on whether they are satisfied with the action taken and the learning from the process.
- 2.7 The average number of working days that the Council took to make an initial response to the first stage of an Ombudsman enquiry (19.4 days) is within the standard set by the LGO of 20 days. The exceptions to this were in Children's Social Services and Highways Services.
- 2.8 As an indication of Coventry's performance in relation to other local authorities the table below shows a comparison with the (CIPFA) nearest neighbours group. The table includes the number of investigations and the percentage upheld/not upheld. The 19 investigations for Coventry in 2013/14 was less than the average for the group of 22 however there were more complaints upheld 53% as compared to the average of 41%.

Local Authority	Upheld	Not Upheld	% Upheld	Total
Rochdale	5	4	56%	9
Stockton-on-Tees	5	5	50%	10
Peterborough	10	4	71%	14
Calderdale	8	8	50%	16
Dudley	3	16	16%	19
Oldham	7	12	37%	19
Coventry	10	9	53%	19
Derby	11	8	58%	19
Bolton	9	12	43%	21
Tameside	13	12	52%	25
Medway	6	20	23%	26
Walsall	9	17	35%	26
Wolverhampton	5	23	18%	28
Stoke-on-Trent	17	11	61%	28
Kirklees	13	23	36%	36
Bradford	14	22	39%	36
Average	9	13	41%	22

Complaints investigated by the LGO

Source: Extracted from data annex 2013/14 LGO

<http://www.lgo.org.uk/news/2014/jul/ombudsman-publishes-local-authority-complaint-statistics-new-report/>

- 2.9 Elected members are asked for their views on the timing and format of future reports. It is recommended that Ombudsman Complaints should continue to be reported on an annual basis to coincide with the Ombudsman's Annual Letter usually around July time. In the event that the Ombudsman issues a decision report outlining maladministration by the Council, this would be subject to a separate report as and when it occurred. This would ensure transparency and enable the Council to make sure that the appropriate corrective action had been taken and to avoid the situation recurring.
- 2.10 The reporting arrangements may need to be revised in light of any recommendations arising from a wider review of the Council's complaints management arrangements which is being led through the Customer Journey programme.

3. Results of consultation undertaken

- 3.1 There is no consultation identified in relation to LGO complaints.

4. Timetable for implementing this decision

- 4.1 The number and outcome of LGO cases will be formally reported to members on an annual basis. There will also be a separate report to the Cabinet Member at any time in the year should the Ombudsman issue a formal report about an upheld finding of maladministration.

5. Comments from Executive Director, Resources

- 5.1 Financial implications

In 2013/14 the Council paid a total of £9,236 in local settlements and this related to five complaints. The money was found from existing Directorate service budgets.

5.2 Legal implications

The Local Government Act 1974 defines the main statutory functions for the Ombudsmen:

- to investigate complaints against councils and some other authorities
- to investigate complaints about adult social care providers from people who arrange or fund their adult social care (Health Act 2009)
- to provide advice and guidance on good administrative practice

The main activity under Part III of the 1974 Act is the investigation of complaints, which the Act states is limited to complaints from members of the public alleging they have suffered injustice as a result of maladministration and/or service failure. Under Part IIIA the Ombudsman investigates complaints from people who allege they have suffered injustice as a result of action by adult social care providers.

Whilst there is no legal obligation to do so, the monitoring and reporting on the outcomes of the LGO complaints represents good practice and promotes good governance and service improvement.

6. Other implications

6.1 How will this contribute to achievement of the Council's key priorities?

Putting local people first and their needs at the heart of the customer journey is a priority for the Council. As part of the Customer Journey programme there will be wider consideration of the Council's complaints management process to see whether further improvements can be made and this will also include ombudsman complaints.

6.2 How is risk being managed?

It is important that the Council takes action and learns from the outcome of complaints. Appendix A describes the actions that the Council has taken for example providing training, instruction and guidance to staff and improving communications between services to help to manage risk of the likelihood of the same fault happening again.

6.3 What is the impact on the organisation?

The co-ordination and management of Ombudsman complaints often involves considerable time of officers including where appropriate legal advice. The effective co-ordination and management of the Council's own complaints process is important in helping to manage this resource and this will be reviewed as part of the Customer Journey programme.

6.4 Equalities / EIA

All members of the public are able to refer complaints to the LGO if they are dissatisfied with Council services. This is made clear through the Council's complaint process and in individual letters detailing the findings of the Council's own complaints investigations.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

Although Ombudsman complaints primarily concern services provided by Coventry City Council they may from time to time also involve partners and third party contractors. In

these cases there is provision for them to comment or provide information as part of an Ombudsman investigation.

Report author(s):

Name and job title:

Carol Dear, Corporate Performance Co-ordinator

Directorate:

Chief Executive's

Tel and email contact:

024 7683 3226 Carol.Dear@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Bev McLean	Performance Information Officer	Chief Executive's	11.08.14	11.08.14
Simon Brake	Assistant Director Communities and Health	People	11.08.14	13.08.14
John Teahan	Business Manager	People	11.08.14	15.08.14
Jane Simpson	Business Support Manager	Place	11.08.14	11.08.14
David Wilson	Children's Complaints Officer	People	11.08.14	12.08.14
Steve Mangan	Manager Audit	Resources	11.08.14	13.08.14
Tim Saville	Head of Revenues and Benefits	Resources	19.08.14	19.08.14
Lara Knight	Governance Services Team Leader	Resources	23.08.14	26.08.14
Other members				
Names of approvers for submission: (officers and members)				
Finance: Paul Jennings	Corporate Finance Manager	Resources	19.08.14	19.08.14
Legal: Helen Lynch	Corporate Governance and Litigation Manager	Resources	11.08.14	20.08.14
Assistant Director: Jenni Venn	Assistant Director Policy and Partnership	Chief Executive's	11.08.14	11.08.14
Director: Martin Reeves	Chief Executive		20.08.14	20.08.14
Members: Councillor Ann Lucas	Cabinet Member Policy and Leadership		20.08.14	27.08.14

This report is published on the Council's website:

www.coventry.gov.uk/councilmeetings

Appendix A

Decisions in 2013/14 (detailed investigations carried out)

Directorate/Division	Decisions Upheld	Monetary Settlement
People		
Adult Social Care (3)	<ul style="list-style-type: none"> • The Council did not follow agreed procedure that they would contact client's daughter regarding appointments. <ul style="list-style-type: none"> - The Council apologised and agreed to write to daughter to make any further appointments. • The Council did not deal properly with the assessment of Mr K's parents' needs or with their direct payments. <ul style="list-style-type: none"> - Injustice remedied through £3,138 additional payment agreed as part of the final decision. The Council produced a Q&A practice guide on direct payments for practitioners. • A safeguarding complaint for which the ombudsman issued a formal report. <ul style="list-style-type: none"> - The Council apologised and informed relevant parties of the Ombudsman's decision. 	£3,138
Children's Social Services (4)	<ul style="list-style-type: none"> • The Council did not follow the correct procedure regarding obtaining parental permission. <ul style="list-style-type: none"> - A settlement of £2,000 for time and trouble and distress and anxiety. All managers were reminded and made fully aware of the rules relating to parental responsibility. • The Council did not amend Core Assessment and delayed reviewing the child's care package. Record keeping was found to be poor. <ul style="list-style-type: none"> - £200 settlement for the delays experienced. The Council wrote to the complainant explaining the steps that it had taken to ensure social care staff were properly trained in their duty to record all dealings with service users. • This comprised 2 complaints relating to Education and Social Services in which it was alleged 	£2,550

Directorate/Division	Decisions Upheld	Monetary Settlement
	<p>that the Council did not deal properly with concerns about Child A, failed to provide suitable services for the child and parent and also took excessive time to deal with concerns.</p> <ul style="list-style-type: none"> - The investigator considered that there was some evidence of fault by children's social services. £350 settlement. Training provided for social workers in understanding needs of children who are on the autistic spectrum. 	
Education Services (1)	<ul style="list-style-type: none"> • The Council failed to provide suitable education for a child and delayed in finding a suitable alternative placement. The level of home tuition provided was considered to be too low. - A payment of £1,500 for the lack of educational provision and £200 for the delay in naming a suitable school for the child. 	£1,700
Resources		
Benefits (2)	<ul style="list-style-type: none"> • The Council failed to pay housing benefit direct to the landlord despite there being rent arrears in excess of 8 weeks. The complainant landlord informed the Housing Service and the information was not passed on to Housing Benefit Service. - Settlement for lost rent payments of £580 and £1,118, additional £150 for time and trouble. The Council took steps to improve liaison between the respective services. • The Council did not explain about appeal rights to a letting agent when it sought to recover a housing benefit overpayment. - The Council agreed to consider an appeal and apologised for its delay in responding to the complainant. 	£1,848
Total	10 complaints upheld	£9,236

Directorate/Division	Decisions Not Upheld
People	
Adult Social Care (2)	<ul style="list-style-type: none"> The investigator found no fault in the Council's decision not to place an adult with learning disabilities in Ms A's shared lives scheme. The Council had not finished investigating Miss X's complaint about its support to her mother so the investigator stopped the investigation.
Children's Social Services (1)	<ul style="list-style-type: none"> Mr X complained about unfair bias against him in a report for a Child Protection Conference. There was insufficient evidence of fault in the way in which the Council drew up the report or that this caused harm to the children.
Housing (1)	<ul style="list-style-type: none"> The investigator found no fault in the way the Council assessed Miss X's Housing Register application.
Education Services (1)	<ul style="list-style-type: none"> Ms X complained to the Ombudsman on behalf of her daughter but her daughter did not provide her consent to the complaint being investigated. Therefore the investigator discontinued her investigation.
Place	
Bereavement Services (1)	<ul style="list-style-type: none"> The investigator found some poor record keeping in 2012 but no other significant fault in relation to Mrs X complaint with regard to the location of her son's grave.
Highways (1)	<ul style="list-style-type: none"> The Council approved a programme of verge schemes including re-advertising of a verge parking restriction at Mr C's location. The investigator discontinued her investigation as she considered the Ombudsman's continued involvement at this stage would not achieve more.
Planning (1)	<ul style="list-style-type: none"> Mrs C complained about the way the Council considered a planning application the investigator decided to complete her investigation as she found no evidence of fault causing the complainant an injustice.

Directorate/Division	Decisions Not Upheld
Resources	
Benefits (1)	<ul style="list-style-type: none"> Mr E complained the Council made payment of housing benefit to him late and owed him a payment. The investigator found no fault by the Council.
Total	9 Complaints not upheld