

Cabinet Member for Policy and Leadership
Audit and Procurement Committee

8 October 2015
26 October 2015

Name of Cabinet Member:

Cabinet Member for Policy and Leadership - Councillor Ann Lucas OBE

Director Approving Submission of the report:

Director of Public Health

Ward(s) affected:

Nil

Title:

Complaints to the Local Government Ombudsman 2014/15

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.

In June 2015 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.

This report sets out in more detail the complaints about Coventry received by the Ombudsman during 2014/15 and the corresponding outcomes. This is also compared to the Council's performance during 2013/14.

Recommendations:

The Cabinet Member is recommended to:

- (1) Consider the Council's performance in relation to complaints to the LGO.
- (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.

The Audit and Procurement Committee is recommended to:

- (1) Consider the Council's performance in relation to complaints to the LGO.
- (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.

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 2014/15

<http://www.lgo.org.uk/publications/annual-reviews/>

Report to Cabinet Member Policy Leadership and Governance 5 September: Complaints to the Local Government Ombudsman 2013/14

<http://democraticservices.coventry.gov.uk/documents/s19283/Complaints%20to%20the%20Local%20Government%20Ombudsman%20201314.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

Will this report go to Council?

No

Report title: Complaints to the Local Government Ombudsman 2014/15

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 2014/15. It also provides more detail on those complaints which were investigated by the Ombudsman during 2014/15 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 June 2015. The letter includes summary statistics for 2014/15 and shows that the Ombudsman recorded 110 complaints and enquiries relating to Coventry City Council. This was very close to the figure of 108 recorded for the previous year 2013/14. There is always a slight difference between this figure and the numbers recorded by the Council as some enquiries to the LGO will result in advice being given without the need for contact between the Ombudsman and local authority.

Adult care services	Benefits & tax	Corporate & other services	Education & children’s services	Environmental services & public protection & regulation	Highways & transport	Housing	Planning & development	Total
13	15	14	22	22	13	5	6	110

Table 1: Summary statistics complaints and enquiries received by the Ombudsman about the Council: Ombudsman Annual Letter to the Chief Executive June 2015

- 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 In the Local Government Ombudsman Review of Local Government Complaints 2014 – 15 the Ombudsman reported:-
 “The headlines for this year’s data show that:
 - We experienced a 10% increase in social care complaints
 - We upheld 46% of all complaints where we carried out a detailed investigation
 - We received a 11% decrease in complaints about benefits and tax
 - As a proportion of our total work, education and children’s services remains our most complained about areas
 - Despite these changes, the overall number of local authority complaints and enquiries we received remained largely static to the previous year.”
- 2.4 LGO decision classifications are defined as follows:
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.

- 2.5 There were 107 decisions made for Coventry in 2014/15 and the LGO investigated 27 complaints, this was more than 19 of the previous year. The number of upheld cases in 2014/15 9 (33% of the total investigated) compares favourably with 10 (53%) for the previous year. The Ombudsman did not issue formal reports of maladministration for any of the complaints upheld during 2014/15. This compares to one for the previous year.
- 2.6 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.
- 2.7 The 27 complaints investigated by the LGO in 2014/15 related to the following service areas. The table below also shows how this compares with the previous year 2013/14.

Service Area	2014/15			2013/14		
	Upheld	Not upheld	Time to respond (days)	Upheld	Not upheld	Time to respond (days)
Waste Services	4	2	17			
Education Services	1	4	12	1	1	18
Adult Social Care	1	3	22	3	2	16
Council Tax	2	1	18			
Highways Services		2	22		1	23
Children's social services	1		24	4	1	24
Business Services		1	n/a			
Communities and Health		1	19			
Environmental – Dog Fouling		1	n/a			
Housing services		1	26		1	19
Planning		1	16		1	19
Taxi Licensing		1	20			
Benefits				2	1	12
Bereavement Services					1	20
Total	9	18	18	10	9	19

Table 2: Cases investigated by the Local Government Ombudsman 2014/15.

- 2.8 The biggest increase in 2014/15 has been for Waste Services where the Ombudsman investigated six complaints and upheld four of them. The overall increase in number of waste related complaints was in part due to the service area making improvements to its own complaints process, by making sure that every stage 2 response letter included Local Government Ombudsman contact details if the complainant is not satisfied with the response. The service area has also taken steps to improve the quality of the stage 1 and stage 2 investigations so that wherever possible complaints can be resolved at this earlier stage. The number of complaints received, responded to and subsequently forwarded to the Ombudsman are still a very small number in the context of the 200,000 transactions the service area completes each week. All 4 of the cases upheld by the Ombudsman were in connection with missed collections in which a resolution was agreed between the service area and the resident.
- 2.9 Other increases were in Council Tax where 2 cases were upheld out of the three investigated although this year there were no benefits related complaints. Also in Education Services where 5 were investigated and one upheld. The number of cases related to adult social care and children's social care both reduced with one upheld for each as compared to 3 for adults and 4 for children's the previous year.

- 2.10 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.
- 2.11 The average number of working days that the Council took to make an initial response to the first stage of an Ombudsman enquiry (18 days) is within the standard set by the LGO of 20 days. However there were exceptions to this most notably in Adult Social Care, Children's Social Services, Highways Services and Housing Services.
- 2.12 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. The 27 complaints investigated for Coventry in 2014/15 was higher than the average for the group of 23. There were 9 complaints upheld which was consistent with the average, this was 33% of the complaints investigated as compared with the average of 40%.

Nearest Neighbour Comparison 2014-15				
Local Authority	Upheld	Not Upheld	% Upheld	Total
Kirklees	4	23	15%	27
Nottingham	6	20	23%	26
Bradford	10	32	24%	42
Newcastle upon Tyne	4	11	27%	15
Walsall	5	13	28%	18
Dudley	3	7	30%	10
Coventry	9	18	33%	27
Oldham	5	9	36%	14
Sheffield	19	22	46%	41
Wolverhampton	8	9	47%	17
Bolton	6	6	50%	12
Derby	10	9	53%	19
Medway	19	14	58%	33
Rochdale	9	6	60%	15
Sandwell	19	7	73%	26
Average	9	14	40%	23

Table 3: Complaints investigated by the LGO comparison with nearest neighbours
Source: Extracted from data annex 2014/15 LGO

- 2.13 The management and reporting of Ombudsman cases and liaison with the Local Government Office is currently managed through the Council's Insight Team. These arrangements may be revised in the future 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 Cabinet Member Policy and Leadership and Audit Committee 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 2014/15 the Council paid a total of £2,625 in local settlements and this related to four 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 Councils complaint process and in individual letters detailing the findings of the Councils 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.

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Jane Simpson	Business Support Manager	Place	21.8.15	10.9.15
Sarah Elliott	Head of Waste Services	Place	26.8.15	10.9.15
David Wilson	Children's Complaints Officer	People	21.8.15	27.8.15
Steve Mangan	Manager Audit	Resources	21.8.15	10.9.15
Janine Garforth	Business Support Officer	Resources	21.8.15	7.9.15
Tim Saville	Head of Revenues and Benefits	Resources	21.8.15	17.8.15
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Other members				
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Finance: Rachel Sugars	Corporate	Resources	21.8.15	7.9.15

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Director: Jane Moore	Director of Public Health	Chief Executives	10.9.15	17.9.15
Members: Councillor Ann Lucas	Cabinet Member Policy and Leadership		11.9.15	21.9.15

This report is published on the Council's website: www.coventry.gov.uk/councilmeetings

Appendix A - Decisions in 2014/15 (detailed investigations carried out)

Directorate/Division	Decisions Upheld (9)	Monetary Settlement
People		
Adult Social Care	<ul style="list-style-type: none"> • There was a delay in carrying out a review of Mr B’s care needs. The Council did not take steps to address Mr B’s social isolation after his scheduled activities stopped. This caused him distress. - The Council agreed to apologise, make a payment and review its administration and case recording to make sure that relevant staff are reminded when a case requires an annual review. 	£500
Children’s Social Services	<ul style="list-style-type: none"> • Mr & Mrs X complained that the Council failed to follow correct procedures when removing two foster children from their care. - The Ombudsman considered there were faults in the Council’s process but could not say the outcome would have been different. The Council accepted the foster carers should have been consulted and offered the opportunity to have their complaint considered at Stage 2 of the complaints process. The Council agreed to apologise for these errors, send redacted notes of the social workers’ discussions about the merits of ending the placement and to pay Mr and Mrs X £300 for their avoidable distress and £250 for their time and trouble in pursuing their complaint. 	£300 £250
Education Services	<ul style="list-style-type: none"> • The complainants alleged that the Council failed to provide suitable education for their son since September 2012. - The Ombudsman considered there had been some avoidable delays causing an injustice to the complainants and to their son. The Council has agreed to apologise for the faults identified by the Ombudsman, pay £1000 for Child A’s lost opportunity to start earlier at School C. This was to be paid to Mr and Mrs X to use in the way they considered best to make up for the lost education, pay £250 to Mr and Mrs X for their avoidable distress, time and trouble in pursuing their complaints and £250 to Child A for the delay in starting the home tuition. Again this was paid to Mr and Mrs X so they could decide how this should be used to Child A’s educational benefit. 	£1,000 £250 £250
Place		

Directorate/Division	Decisions Upheld (9)	Monetary Settlement
Waste Services	<ul style="list-style-type: none"> • Mrs B's complaint that the Council had repeatedly failed to collect her green waste bin. - Council agreed to take action to monitor Mrs B's collections. The Council gave crews a direct instruction to report individually on any issue with the green waste collections in Mrs B's street. The Council also added Mrs B's property to a monitoring list to prevent a recurrence of the same issues. 	
	<ul style="list-style-type: none"> • Ms C, complained the Council missed collecting her household refuse or was late in doing so several times between June and October 2014. Ms C said because of the Council's fault her bins are mouldy and she has spent unnecessary time and trouble in reporting missed or late collections. - The Council apologised and agreed to replace her wheelie bins. The Ombudsman then completed her investigation. 	
	<ul style="list-style-type: none"> • Ms H complained the Council repeatedly failed to empty the communal refuse bins for the block of flats in which she lives and also that when the collection is missed the Council does not immediately send out another bin crew to remedy matters. - The Council apologised and took steps to improve matters. 	
	<ul style="list-style-type: none"> • Ms X complained the Council had failed to collect her waste and refused to deal with her complaints about the health hazards the missed bin collections were causing. - The Council met with Ms X and agreed a settlement of her complaints. The Council apologised and replaced the wheelie bins. 	
Resources		
Council Tax	<ul style="list-style-type: none"> • There was fault by the Council regarding Mr T's council tax. - The Council has agreed to pay Mr T £75 for its error and delay. • Mr X said the Council pursued him for Council Tax debt at the wrong address. - The Council accepted it used the wrong address for recovery action and waived charges (£358.50) Mr X incurred as a result of court and bailiff action. The Ombudsman completed her investigation as there was fault causing injustice and the Council had taken action to remedy this. 	£75
Total		£2,625

Directorate/Division	Decisions Not Upheld (18)
People	
Adult Social Care	<ul style="list-style-type: none"> The Council agreed it is responsible for complainant's social care needs which fall under Section 117 of the Mental Health Act 1983. The Council corresponded with the other council where Mrs B lived to resolve issues around her care plan so the investigation was discontinued. The Ombudsman found that the Council was entitled to appoint an Independent Mental Capacity Advocate for Mr J's mother, as it had taken measures to protect her within the context of a safeguarding investigation. Mr X complained the Council did not fully investigate a missing photo frame or contact the family when Mr Y injured his hand. The Ombudsman stopped investigating this complaint as the injustice caused to Mr X by the alleged fault is not so significant that the Ombudsman would investigate further. Staff alerted the Safeguarding team and the Care Quality Commission to the injury to Mr Y's hand. Mr Y received medical advice immediately and no treatment was required. Staff apologised to Mr X because they did not let him know about the injury.
Communities and Health	<ul style="list-style-type: none"> The Ombudsman did not find fault by the Council regarding the support it gave Mr A to complete walk leader training.
Education/Legal – School Admissions	<ul style="list-style-type: none"> There was no fault in how a school admission appeal panel considered Ms X's appeal for a place for her daughter at a school The Council was not at fault in the way it applied its admissions criteria to Mrs Y's application for a school place for her son, or in the way the Appeals Panel considered her appeal. The Ombudsman found no fault on Mr C's complaint that the admissions appeal panel failed to properly consider his appeal against the Council's decision to refuse his daughter a place in Year 2 at his preferred school. The records show the panel properly considered his appeal. (2 separate appeals investigated)
Housing	<ul style="list-style-type: none"> The Ombudsman found there was no fault in the way the Council considered Ms X's housing application and decided on the priority band.
Place	
Highways	<ul style="list-style-type: none"> Complaint regarding a pavement crossing. Ombudsman found no evidence of fault requiring a remedy. The Ombudsman did not uphold Miss C's complaint about a dropped kerb crossing as she did not consider any fault by the Council had caused Miss C an injustice.
Planning	<ul style="list-style-type: none"> Planning complaint the Ombudsman found no evidence of fault by the Council.
Taxi Licensing	<ul style="list-style-type: none"> Ombudsman completed her investigation into this taxi licensing complaint as she found no evidence of fault by the Council causing the complainant an injustice.

Directorate/Division	Decisions Not Upheld (18)
Waste Services	<ul style="list-style-type: none"> • Complaint repeated failure to empty bins - the Council put in place appropriate measures to ensure that it emptied the complainant's bins each week in accordance with its assisted collections procedure. The Ombudsman's continued involvement would not add to the remedy the Council had provided. • Complaint frequently missed collections of garden refuse - The Council put in place appropriate measures to ensure that it emptied the complainant's garden refuse bin every two weeks. The Ombudsman's continued involvement would not add to the remedy it has provided.
Environmental Services	<ul style="list-style-type: none"> • Mr A complained about fixed penalty charge of £50 issued by the Council, the Warden's attitude and that the Council told him to pay penalty charge and then appeal against it or make a complaint. He said he should not pay as Warden could not show him the dog foul. The Ombudsman did not continue her investigation because the injustice to Mr A was not significant. She considered a loss of less than £100 to not significant enough to justify the cost of her involvement, rudeness and poor attitude by a council officer may be annoying but they do not amount to significant injustice either. The Ombudsman could not investigate a complaint about poor advice. The advice was not in writing and Mr A could not identify which officer gave the advice.
Resources	
Council Tax	<ul style="list-style-type: none"> • Council tax arrears the Ombudsman found there was some fault by the bailiff in charging for a failed direct debit fee but this was removed and did not cause an injustice to complainant.
Business Services	<ul style="list-style-type: none"> • Ms X alleged the Council failed to respond properly to her concerns that personal information had been extracted from Council records. The Ombudsman was satisfied that the Council responded to Ms X's concerns and it had resolved the complaint.