

Cabinet Member for Policy and Leadership
Audit and Procurement Committee

8 November 2017
22 January 2018

Name of Cabinet Member:

Cabinet Member for Policy and Leadership – Councillor Duggins

Director approving submission of the report:

Deputy Chief Executive (People)

Ward(s) affected:

All

Title:

Complaints to the Local Government and Social Care Ombudsman 2016/17

Is this a key decision?

No

Executive summary:

The Local Government and Social Care Ombudsman (LGO) is the final stage for complaints about councils, all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services. It is a free service that investigate complaints in a fair and independent way; and provides a means of redress to individuals for injustice caused by unfair treatment or service failure.

Coventry City Council's complaints policy sets out how individuals can complain to the Council, as well as how the Council handle compliments, comments and complaints. The Council informs individuals of their rights to contact the LGO if they are not happy with the Council's decision after they have exhausted the Council's own complaints process.

Every year, the LGO issues an annual letter to every Council, summarising the number and trends of complaints dealt with in each local authority. The latest letter, issued July 2017 covers complaints to Coventry City Council between April 2016 and March 2017 (2016/17).

This report sets out the number, trends and outcomes of complaints to the LGO relating to Coventry City Council in 2016/17, and a comparison to previous years.

Recommendations:

The Cabinet Member is recommended to:

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

2. Note the Council complaints process and guidance, updated for 2017 in line with recommendations set out in the annual letter.
3. 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. Note the Council complaints process and guidance, updated for 2017 in line with recommendations set out in the annual letter.
3. 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 I – Coventry City Council Local Government and Social Care Ombudsman Complaints Handling Guidance

Appendix II – Local Government and Social Care Ombudsman Investigation Decisions in 2016/17 for Coventry City Council

Background papers:

None

Other useful documents

Local Government and Social Care Ombudsman Annual Review letter 2017 for Coventry City Council

<http://www.lgo.org.uk/documents/councilperformance/2017/coventry%20city%20council.pdf>

Local Government and Social Care Ombudsman complaint reviews – Complaints received and decisions made 2016/17 data sheets <http://www.lgo.org.uk/information-centre/reports/annual-review-reports/local-government-complaint-reviews> and <http://www.lgo.org.uk/information-centre/news/2017/aug/ombudsman-releases-complaints-statistics-for-all-local-authorities>

Report to Cabinet Member Strategic Finance and Resources 15 December 2016 – Complaints to the Local Government Ombudsman 2015/16

<http://democraticservices.coventry.gov.uk/ieListDocuments.aspx?CIId=208&MIId=11055&Ver=4>

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 on 22 January 2018

Will this report go to Council?

No

Report title:

Complaints to the Local Government and Social Care Ombudsman 2016/17

1 Context (or background)

- 1.1 The Local Government and Social Care Ombudsman (LGO) is the final stage for complaints about councils, all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services. It is a free service that investigate complaints in a fair and independent way; and provides a means of redress to individuals for injustice caused by unfair treatment or service failure
- 1.2 Coventry City Council's complaints policy, published on the Council's website at www.coventry.gov.uk/complaints/, sets out how individuals can complain to the Council, as well as how the Council handle compliments, comments and complaints. The Council informs individuals of their rights to contact the LGO if they are not happy with the Council's decision after they have exhausted the Council's own complaints process.
- 1.3 Every year, the LGO issues an annual letter to every council, summarising the number and trends of complaints dealt with in each local authority. The latest letter, issued July 2017 covers complaints to Coventry City Council between April 2016 and March 2017 (2016/17).
- 1.4 This report to Cabinet Member Policy and Leadership and the Audit and Procurement Committee sets out the number, trends and outcomes of complaints to the LGO relating to Coventry City Council in 2016/17, and a comparison to previous years. It also provides more detail about complaints that the LGO investigated, including the actions taken by the Council when the LGO upholds a complaint.
- 1.5 The Council also produces formal reports on complaints about adult social care and children's social care, to Cabinet Member Adult Services and Cabinet Member Children and Young People respectively.

2 Options considered and recommended proposal

- 2.1 Nationally, the LGO received 16,863 complaints and enquiries in 2016/17, the greatest proportion were about education and children's services (2,983), followed by adult social care (2,555), and planning and development (2,336).
- 2.2 Locally, the LGO recorded 105 complaints and enquiries in 2016/17 relating to Coventry City Council. This is similar to the number recorded in 2015/16 (109 complaints). The following sets out complaints and enquiries received by the LGO about Coventry City Council in 2016/17 by category (as defined by the LGO) and shows if the number received has increased (↑) or reduced (↓) between 2015/16 and 2016/17:

Complaints by category

Category	Complaints	Trend
Adult care services	13	↑
Benefits and tax	11	↓
Corporate & other services	10	↓
Education & children's services	17	↓
Environment services, public protection & regulation	17	↓
Highways & transport	16	↓
Housing	14	↑
Planning & development	7	↑
Total	105	↓

- 2.3 It is not possible to comment on the Council's performance based purely upon the number of complaints or enquiries to the LGO. On one hand, a high number of complaints may indicate that a council has been effective at signposting people to the LGO through their complaints handling process. On the other hand, a high number of complaints may also highlight that a council needs to do more to resolve issues through its own complaints process.
- 2.4 When dealing with an enquiry, the LGO can choose to investigate cases where it sees merit in doing so. Following an investigation, the LGO can decide if a complaint is: **upheld** – where a council has been at fault and this fault may or may not have caused an injustice to the complainant; or where a council has accepted it needs to remedy the complaint before the Council makes a finding on fault; or **not upheld** – where, following investigation, the LGO decides that a council has not acted with fault.
- 2.5 Of the 105 complaints about Coventry City Council in 2016/17, 25 complaints were investigated, a 14% increase from 22 complaints in 2015/16. 15 out of the 25 complaints were upheld (60%). This is an increase from 11 out of 22 complaints (50%) in 2015/16. The percentage upheld (60%) in Coventry compares to a statistical neighbour average of 52% of complaints upheld and a national average of 54% complaints upheld. The tables below sets out how Coventry compares to its Chartered Institute of Public Finance and Accountancy (CIPFA) statistical neighbours, showing a range from 29% upheld (Peterborough) to 86% upheld (Rochdale); and a comparison with other West Midlands Combined Authority (WMCA) authorities, showing a range from 50% upheld (Walsall) to 73% upheld (Solihull).

Complaints investigated: comparison with WMCA authorities 2016/17

Local Authority	Not Upheld	Upheld	% Upheld	Total
Walsall	14	14	50%	28
Dudley	8	9	53%	17
Wolverhampton	7	10	59%	17
Coventry	10	15	60%	25
Sandwell	7	11	61%	18
Birmingham	38	63	62%	101
Solihull	3	8	73%	11
Average	12.4	18.6	60%	31

Complaints investigated: comparison with CIPFA statistical neighbours 2016/17

Local Authority	Not Upheld	Upheld	% Upheld	Total
Peterborough	5	2	29%	7
Stockton on Tees	7	3	30%	10
Bolton	6	5	45%	11
Sheffield	21	20	49%	41
Medway	13	13	50%	26
Swindon	5	5	50%	10
Walsall	14	14	50%	28
Kirklees	15	16	52%	31
Bradford	11	12	52%	23
Dudley	8	9	53%	17
Wolverhampton	7	10	59%	17
Coventry	10	15	60%	25
Derby	6	9	60%	15
Sandwell	7	11	61%	18
Rochdale	1	6	86%	7
Average	9	10	52%	19

2.6 Of the 15 upheld complaints for Coventry, the LGO:

- recommended a remedy for nine complaints;
- found that the fault did not cause an injustice in five complaints; and
- was satisfied with the Council's remedy in one complaint.

Six complaints resulted in some form of financial redress or reimbursement.

2.7 Following a decision, the LGO will typically issue a statement setting out its findings and its decision. If the LGO decides there was fault or maladministration causing an injustice to the complainant, it will typically recommend that a council take some action to address it. 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. In some cases, where the LGO upholds a complaint, the LGO may choose to issue a formal report of maladministration.

2.8 The Ombudsman did not issue formal reports of maladministration for any of the 15 complaints upheld during 2016/17.

2.9 The following table, complaints by service area, sets out details about the 25 complaints that the LGO investigated in 2016/17 by service area, and how it compares to 2015/16.

Complaints by service area in 2016/17 compared to 2015/16

Service area	2016/17				2015/16			
	Upheld	Not upheld	% upheld	Response time (days)	Upheld	Not upheld	% upheld	Response time (days)
Adult social care	7	1	88%	21	2	2	50%	24
Children's social care	3		100%	19	2		100%	22
Benefits		1	0%					
Council tax	1		100%		2	1	67%	11
Education services					1		100%	20
Environmental services		1	0%	19				
Highways services		1	0%	20	1	3	25%	19
Housing services		1	0%			1	0%	27
Legal		1	0%			2	0%	19
Noise	1		100%	18		1	0%	18
Planning		1	0%	21		1	0%	
Parking	1	3	25%	20				
Open spaces	2		100%	31				
Waste services					3		100%	20
Total	15	10	60%	21	11	11	50%	20

2.10 The highest number of complaints upheld in Coventry (seven complaints) was in adult social care. The number of investigations in adult social care doubled from four in 2015/16 to eight in 2016/17 and the percentage upheld has increased from 50% to 88%. This compares to a West Midlands average of 73% and a national average of 64%. However, this needs to be seen in the context of the total volume of complaints: the Council received 67 statutory adult social care complaints in 2016/17; which 13 complaints or enquiries relating to adult care services were considered by the LGO; and only eight were investigated.

2.11 The LGO typically expects councils to respond to investigation enquiries within 20 working days. In 2016/17, on average, the Council took 21 working days to respond to enquiries on investigations; compared to 20 working days in 2015/16. This was mainly a result of the two complaints regarding open spaces where the average response time was 31 days. The complexity of the complaint, involving many service areas, meant that the Council had to ask the LGO for an extension to the response timescales.

2.12 Following the investigations, the LGO recommended some changes to our procedures on the upheld complaints in adult social care, children's social care, and in the noise team, this is set out in the learning from complaints table, below.

Further details about the outcomes of each of the complaints investigated and the actions taken are set out in Appendix II.

Learning from complaints: changes to procedures as recommended by the LGO

Area	Summary of recommendations
Adult social care	<p>The Council accepted that a home care agency acting on behalf of the Council did not use the electronic call monitoring system properly. The Council's care commissioning and finance teams agreed to put in steps to reduce the risk of this occurring in the future.</p> <p>In a separate complaint, the Council agreed to further monitor a care provider.</p> <p>In another complaint, the Council's mental health service recognised that there were unacceptable delays in undertaking a re-assessment of needs, and a carer's assessment. The service recognised the need to establish service standards in line with other services in adult social care, and is taking this forward as part of business planning for 2017/18.</p>
Children's social care	<p>Recommendations from the LGO have been noted and included in the Council's redesign of children's social care. In particular, the business processes and workflow project will provide better evidence and data so that interventions can be more effectively be provided at the right time and in the right way. The successful implementation of the project will support more robust relationships with families, improving the way the service communicates processes to families; while approved, consistent and systematic practice models will reduce instances when practice and processes have not been followed properly.</p>
Noise team	<p>The Council agreed to review its arrangements for storing information, such as diary records, and to consider introducing service standards for responding to calls and emails from members of the public who report incidents to the noise team.</p>

3 Results of consultation undertaken

3.1 None identified or undertaken.

4 Timetable for implementing this decision

4.1 The LGO Link Officer function in Coventry is located as part of the Council's Insight function. All complaints, enquiries and investigations relating to the LGO goes via the Link Officer.

4.2 The Council's own guidance and process for dealing with LGO complaints is set out in Appendix I. This has been updated for 2017/18 in line with the LGO annual letter 2017, which clarifies how the LGO expects councils to ensure that investigations are properly communicated to elected members. In particular:

- complaints to the LGO will continue to be formally reported to the Cabinet Member for Policy and Leadership and the Audit and Procurement Committee every year (this report);
- complaints about adult social care and children's social care, including cases investigated by the LGO, will also continue to be reported through an annual report to the Cabinet Member Adult Services and Cabinet Member Children and Young People respectively;
- where an investigation has wider implications for Council policy or exposes a more significant finding of maladministration, the Monitoring Officer will consider whether the implications of that investigation should be individually reported to relevant members; and
- should the Council decide not to comply with the LGO's final recommendation following an upheld investigation with a finding of maladministration, or should the LGO issue a formal report (instead of a statement), the Monitoring Officer will report this to members under section 5(2) of the Local Government and Housing Act 1989.

5 Comments from Director of Finance and Corporate Services

5.1 Financial implications

There are no direct financial implications associated with this report. Financial remedies resulting from any complaints are typically paid out of service budgets. In 2016/17, six complaints resulted in some form of financial remedy or reimbursement. These were paid out of budgets from the relevant service areas. The amount paid out relating to 2016/17 is £1,729, of which £1,522 were financial remedies and £207 were reimbursements. In addition there is a further reimbursement relating to a case where the amount is currently subject to a dispute. In the event of the Council having to pay this reimbursement, these costs will be reported in next year's report.

5.2 Legal implications

The statutory functions of the LGO are defined in the Local Government Act 1974. These are: to investigate complaints against councils and some other authorities; to investigate complaints about adult social care providers from people who arrange or fund their own adult social care; and 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 it states is limited to complaints from members of the public alleging they have suffered injustice as a result of maladministration and/or service failure.

The LGO's jurisdiction under Part III covers all local councils, police and crime bodies; school admission appeal panels and a range of other bodies providing local services; and under Part IIIA, the LGO also investigate complaints from people who allege they have suffered injustice as a result of action by adult social care providers.

There is a duty under section 5(2) of the Local Government and Housing Act 1989 for the Council's Monitoring Officer to prepare a formal report to the Council where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration or service failure, and where the LGO has conducted an investigation in relation to the matter.

6 Other implications

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

The Council Plan (www.coventry.gov.uk/councilplan/) sets out the Council's vision and priorities for the city. The Council aspires for Coventry to be globally connected, by promoting the growth of a sustainable Coventry economy, and locally committed, by improving the quality of life for Coventry people; and doing so in a way that delivers priorities with fewer resources.

Effective management and resolution of complaints, as well as learning from complaints, help ensure that Council services meet the needs of local residents and communities, and helps build a foundation of trust in order for the Council to have new conversations with residents, communities and partners to enable people to do more for themselves as active and empowered citizens.

6.2 How is risk being managed?

It is important that the Council takes action and learns from the outcome of complaints. Appendix II sets out 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 complaints to the LGO often involves considerable time of officers of all levels of seniority. It involves collecting a significant amount of data, preparing and writing formal responses, and chasing to meet timescales set out; and where appropriate, external input from partner organisations and commissioned services.

Therefore, it is ideal for complaints to the Council to be resolved informally at first point of contact, or resolved through the Council's own internal complaints procedures, adult social care complaints procedures, or children's social care complaints procedures, as appropriate. This would improve satisfaction for local residents and communities, as well as save Council time and resources.

6.4 Equalities and equality and consultation analyses (ECA)

Members of the public are encouraged to speak up and tell the Council if they have anything to say about Council services; if the Council does not get it right for them; or if they think the Council has done something well. This is set out in the Council's complaint policy (www.coventry.gov.uk/complaints/). To ensure that everyone is able to provide feedback, the Council accepts comments, compliments and complaints via face-to-face contact, telephone calls, letters, emails, or via an online form on the Council's website; and proportionate equalities monitoring data is also collected. Members of the public are informed that they can ask somebody else to act on their behalf, for instance, a friend or relative or the Citizens Advice Bureau. Where necessary and appropriate, translation and interpretation services, correspondence in large print, audiotape, or braille, or the services of an advocate is also available. Should a complainant remain dissatisfied following the conclusion of the Council's complaints process, they are able to refer their complaint to the LGO. The Council's complaint policy and individual response letters detailing the findings of the Council's own complaints investigations makes it clear how members of the public can do so.

6.5 Implications for (or impact on) the environment?

None

6.6 Implications for partner organisations?

Investigations by the LGO may involve not only services directly provided by Coventry City Council, but also commissioned or outsourced services. In such cases, the Council liaises with partner organisations and third-party contractors to comment or provide information as part of an investigation.

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