



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

21 OCTOBER 2021

Report of the Director of Legal and Democratic Services

**Annual Review Letter Of The Local Government
And Social Care Ombudsman**

1. Purpose

- 1.1 To inform the Committee that Cabinet, at its meeting on 14 October 2021, considered a report of the Local Government and Social Care Ombudsman's (LGSCO) Annual Review Letter for the year ended 31 March 2021 (a copy of the report which was submitted to Cabinet is attached for the Committee's information – Appendix 4).

2. Information and Analysis

- 2.1 The terms of reference for the Governance, Ethics and Standards Committee include *"to receive regular reports on Local Government Ombudsman referrals"*. Therefore, the Committee is invited to receive the Annual Review Letter from the LGSCO, giving details of the total number of complaints for Derbyshire County Council for the year ending 31 March 2021. The letter is attached at Appendix 2 for consideration.
- 2.2 All of the Ombudsman's annual review letters are published on their website (www.lgo.org.uk) and copied to the Audit Commission.
- 2.3 The aim of the Annual Review Letter is to provide councils with information which will help them assess their performance in handling complaints.

2.4 For the period ending 31 March 2021

The Council received its annual review letter for 2020-2021 from the LGSCO in July 2021 (Appendix 2).

- 2.5 For the period ending 31 March 2021, the LGSCO received 81 complaints and enquiries relating to Derbyshire County Council. The 81 complaints compares to 122 complaints for Derbyshire in the period 2019/20 (a decrease of 34%). The decrease was in some part due to the Covid-19 pandemic; the LGSCO did not accept new complaints and stopped investigating existing cases between March and June 2020. This reduced the number of complaints the LGSCO received and made decisions on in the 2020/21 year and should be taken into consideration when comparing previous statistics.
- 2.6 Looking specifically at the decisions made by the LGSCO for the period ending 31 March 2021, there were 19 detailed investigations carried out, of which 6 were not upheld and 13 were upheld. This gives an upheld rate of 68%, against an average of 71% in similar authorities. By way of comparison in 2019/20 the LGSCO upheld 19 cases following investigation this represents a decrease in cases where there were findings against the Council of 31%.
- 2.7 The LGSCO's Annual Report also noted that there were 2 upheld cases (15%) where the Authority had provided a satisfactory response before the complaint reached the LGSCO. This compares to an average of 8% in similar authorities.
- 2.8 In respect of the 13 complaints upheld by the LGSCO in 2020/21 the LGSCO found fault and suggested a remedy in respect of each case and the remedies were acceptable to the Council. There was one formal investigation report issued against the Council concerning Childrens Services which was reported separately to Cabinet on 17 June 2021 and to the Governance Ethics & Standards Committee on 1 July 2021.
- 2.9 In terms of the 13 complaints upheld by the LGSCO these can be identified in relation to the following County Council departments:

Department	Number of decisions against the Council
Adult Care	1
Children's Services	12

Details of the 13 complaints and the remedies are set out in Appendix 3.

- 2.10 In respect of compliance with the LGSCO's recommendations which is a relatively new statistic now recorded by the LGSCO, of the 13 complaints where compliance with the recommended remedy was recorded during the year, the Council complied with all the recommended remedies giving a compliance rate of 100%.

3. Alternative Options Considered

- 3.1 Not to report the LGSCO report to Governance, Ethics and Standards Committee, however the remit of the Committee included in the Constitution envisages such reports will be considered.

4. Implications

- 4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

5. Consultation

- 5.1 Not applicable.

6. Background Papers

- 6.1 None identified.

7. Appendices

- 7.1 Appendix 1 – Implications.
7.2 Appendix 2 – Annual Review letter of the LGSCO.
7.3 Appendix 3 – Details of the 13 cases upheld by the LGSCO.
7.4 Appendix 4 – Report to Cabinet dated 14 October 2021.

8. Recommendations

That Committee notes the Annual Review Letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2021 and notes that a report on this matter has already been considered by Cabinet on 14 October 2021.

9. Reasons for Recommendations

9.1 To ensure compliance with the Council's Constitution.

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This report has been approved by the following officers:

<p>On behalf of:</p> <p>Director of Legal Services and Monitoring Officer Director of Finance and ICT Managing Executive Director Executive Director(s)</p>	
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Implications

Financial

- 1.1 Payments have already been made to the complainants in accordance with the recommendations of the LGSCO.

Legal

- 2.1 The terms of reference for the Governance, Ethics and Standards Committee include *“to receive regular reports on Local Government Ombudsman referrals”*.
- 2.2 The Local Government and Social Care Ombudsman’s powers are defined by the Local Government Act 1974 as amended by the Local Government and Public Involvement in Health Act 2007.
- 2.3 The LGSCO cannot question whether a Council’s decisions are right or wrong simply because the complainant disagrees with them. He must consider whether there was fault in the way the decision was reached. (Local Government Act 1974, section 34(3)).
- 2.4 The LGSCO will generally only investigate a complaint where the complainant has exhausted the council’s corporate complaints process. It is therefore important that the council maintains a robust complaints procedure.
- 2.5 The LGSCO has the power to make recommendations to a public authority following a complaint, however the recommendations are not mandatory. Findings and recommendations are however published by the LGSCO.
- 2.6 Section 31 of the Local Government Act 1974 requires a report to be submitted to “the authority” when a report on maladministration is received from the Local Government and Social Care Ombudsman. The specific requirement is that the report to “the authority” is made to the “executive” i.e. Cabinet (s.25(4ZA) Local Government Act 1974) where the matter relates to executive functions and Council or a Committee where the matter relates to non-executive functions. A formal investigation report was issued in respect of one of the complaints referred to in the Annual Letter which was formally reported

to Cabinet by the Monitoring Officer in accordance with statutory obligations in s.5A Local Government and Housing Act 1989.

Human Resources

3.1 None directly arising out of this report.

Information Technology

4.1 None directly arising out of this report.

Equalities Impact

5.1 None directly arising out of this report.

Corporate objectives and priorities for change

6.1 None directly arising out of this report.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None directly arising out of this report.