

FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

14 October 2021

**Report of the Director of Legal & Democratic Services and Monitoring
Officer**

**Annual Review Letter of the Local Government & Social Care
Ombudsman (LGSCO) 2020-21**

(Corporate Services and Budget)

1. Divisions Affected

1.1 County Wide

2. Key Decision

2.1 This is not a key decision

3. Purpose

3.1 The purpose of this report is to inform Cabinet of the Local Government and Social Care Ombudsman's (LGSCO) Annual Review Letter for the year ended 31 March 2021.

4. Information and Analysis

4.1 The LGSCO's Annual Review Letter 2020/21, giving details of the total number of complaints for Derbyshire County Council for the year ending

31 March 2021, is attached as Appendix 2 for consideration. All of the LGSCO's annual review letters are published on their website.

- 4.2 The aim of the Annual Review Letter is to provide councils with information which will help them assess their performance in handling complaints.
- 4.3 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.
- 4.4 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%.
- 4.5 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.
- 4.6 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 Children's Services which was reported separately to Cabinet on 17 June 2021 and to the Governance Ethics & Standards Committee on 1 July 2021.
- 4.7 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.

- 4.8 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%.
- 4.9 The LGSCO is increasingly concerned about the evidence he sees of the erosion of effective complaint functions in local authorities. While no doubt the result of considerable and prolonged budget and demand pressures, the Covid-19 pandemic appears to have amplified the problems and his concerns. With much greater frequency, they find poor local complaint handling practices when investigating substantive service issues and see evidence of reductions in the overall capacity, status and visibility of local redress systems. With this context in mind, they are developing a new programme of work that will utilise complaints to drive improvements in both local complaint systems and services. He wants to use the rich evidence of our casework to better identify authorities that need support to improve their complaint handling and target specific support to them. They are at the start of this ambitious work and there will be opportunities for local authorities to shape it over the coming months and years. An already established tool they have for supporting improvements in local complaint handling is their successful training programme. During the year, they successfully adapted our face-to-face courses for online delivery. They provided 79 online workshops during the year, reaching more than 1,100 people. To find out more visit www.lgo.org.uk/training.

5. Consultation

- 5.1 No consultation is necessary.

6. Alternative Options Considered

- 6.1 Not to inform Cabinet of the LGSCO's Annual Review Letter for the period ending 31 March 2021; however considerate is considered important that the Executive are informed of the Annual letter to enable proper oversight of complaints..

7. Implications

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

8. Background Papers

8.1 None identified

9. Appendices

9.1 Appendix 1 – Implications

9.2 Appendix 2 – Annual Review Letter

9.3 Appendix 3 – Details of the 13 upheld cases

10. Recommendation(s)

10.1 That Cabinet notes the Annual Review Letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2021.

11. Reasons for Recommendation(s)

11.1 To ensure that the Executive is aware of the contents of the LGSCO Annual Review letter and has oversight of complaints made.

12. Is it necessary to waive the call-in period?

No

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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 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.
- 2.2 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)).
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.5 The Council's Constitution provides that one of the roles and function of the Governance , Ethics and Standards Committee is '11.To receive

regular reports on the of the Corporate Complaints process, Local Government Ombudsman referrals and to recommend revisions to related policies and procedures as appropriate'. A report will therefore also be prepared for the Committee.

Human Resources

3.1 None directly arising from this report.

Information Technology

4.1 None directly arising from this report.

Equalities Impact

5.1 As this is a statutory report in response to the findings of the Local Government and Social Care Ombudsman no equality impact assessment has been prepared.

Corporate objectives and priorities for change

6.1 None directly arising from this report.

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

7.1 None directly arising from this report.