



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

26 OCTOBER 2023

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 19 October 2023, considered a report of the Local Government and Social Care Ombudsman's (LGSCO) Annual Review Letter for the year ended 31 March 2023 (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 2023. 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 2023

The Council received its annual review letter for 2022-2023 from the LGSCO in July 2023 (Appendix 2).

2.5 For the period ending 31 March 2023, the LGSCO received 97 complaints and enquiries relating to Derbyshire County Council. The 97 complaints compares to 86 complaints for Derbyshire in the period 2021/22 (an increase of 12.7%).

2.6 Looking specifically at the decisions made by the LGSCO for the period ending 31 March 2023, there were 25 detailed investigations carried out, of which 5 were not upheld and 20 were upheld. This gives an upheld rate of 80%, against an average of 80% in similar authorities. By way of comparison in 2021/22 the LGSCO investigated 30 complaints against the Council; this represents a decrease in complaints investigated in 2022/23 of 33%. The upheld rate in 2021/22 was 80% compared to 80% in 2022/23.

2.7 In respect of the 20 complaints upheld by the LGSCO in 2022/23 the LGSCO found fault and suggested a remedy in respect of each case and the remedies were acceptable to the Council

2.8 In terms of the 97complaints made and 20 complaints upheld by the LGSCO these can be identified in relation to the following County Council departments:

Department	Number of complaints and enquiries made to the LGSCO	Number of complaints upheld by the LGSCO
Adult Care	29	5
Children's Services	50	11
PLACE	12	4
CST	6	0

Details of the 20 complaints and the remedies are set out in Appendix 3.

2.9 In respect of compliance with the LGSCO's recommendations of the 18 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 20 cases upheld by the LGSCO.
- 7.4 Appendix 4 – Report to Cabinet dated 19 October 2023

8. Recommendations

That Committee notes the Annual Review Letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2023 and notes that a report on this matter has already been considered by Cabinet on 19 October 2023.

9. Reasons for Recommendations

- 9.1 To ensure compliance with the Council's Constitution.

Appendix 1 **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. During the period April 2022 – March 2023 no such reports of maladministration have been received from the LGSCO. However, complaint 21/018/475 (referred to in appendix 3) is a matter where the Ombudsman found fault, causing injustice, and determined that two key aspects of the Home to School Transport Policy did not comply with

legislation and statutory guidance. Section 5A of the Local Government and Housing Act 1989 imposes a duty on the Monitoring Officer to prepare a report to the Executive if at any time it appears to her that any proposal, decision or omission would give rise to a contravention of any enactment or rule of law in the exercise of its functions. Therefore, a report was presented to Cabinet on 18 May 2023 and approval was given for amendments to the Council's Home to School Transport Policy for children of compulsory school age to ensure compliance with statutory responsibilities.

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.