
Local Government & Social Care Ombudsman Complaints 2019/20

Audit & Risk Committee

Date of meeting: 24 November 2020

Lead director: Alison Greenhill, Director of Finance

Useful information

- Ward(s) affected: All
- Report author: Nilkesh Patel (Service Improvement Manager)
- Author contact details: (0116) 454 2505
- Report version number: V1 (0032)

1 Summary

The purpose of this report is to update the members of the Audit & Risk Committee on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) in 2019/20 regarding Leicester City Council, and for Elected Members to note the outcomes, comment on our actions in response to the lessons learned, the planned improvements, and how these will influence planned future delivery.

2 Recommendations

Members are asked to:

1. Note and comment upon the report observations, including the comparisons and improvements within the administration of complaint handling.
2. Comment upon our actions for future change.

3 Summary of the annual complaints for 2019/20.

The LGSCO's published 2019/20 annual report details key statistics and themes happening nationally about the complaints made to the Ombudsman. The table below shows the national and local picture:

Report themes	National results	Previous year %	Leicester City Council results	Previous Year %
Complaints upheld rate	61%	58%	61%	36%
Highest proportion of upheld complaints	Education and children's services 72%	Benefits & Tax service 69%	Public Protection & Regulation 33.3%	Benefits and Tax 25%
Councils are putting things right more often.	13% of upheld cases already offered a suitable remedy	Increase of 2%	40.1%	59.9%

Number of service improvements recommended	Increased by 12%		Increase of 4.1%	
Compliance with LGSCO recommendations	99.4%	99.4% No change	100%	100% No change

NB: The Ombudsman received a total of 119 complaints. Of these 36 investigated complaints 22 (61%) were upheld with the Council required to remedy the situation.

4 Summary of the complaints for 2019/20

4.1 The Ombudsman reports a total of 112 complaints received during 2019/20, with decisions being made in 119 cases (some complaints received during 2018/19 were not decided during that year). This compares favourably to 128 complaints received during 2018/19.

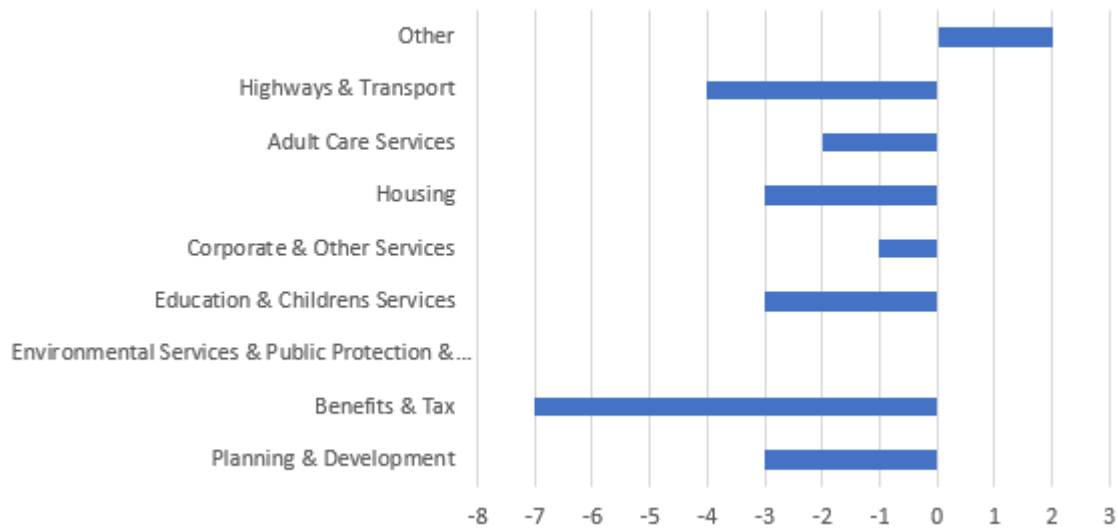
4.2 The Ombudsman categorises service areas slightly differently to LCC's internal complaints process e.g. benefits and tax is one area within the Ombudsman reporting arrangements whereas at Leicester Housing Benefits and Council Tax are distinct reporting areas. Complaints relating to school admissions appeals are categorised as a legal challenge and administered by Legal Services within Leicester, the Ombudsman would categorise it under Education.

4.3 Key themes that were identified at Leicester included:

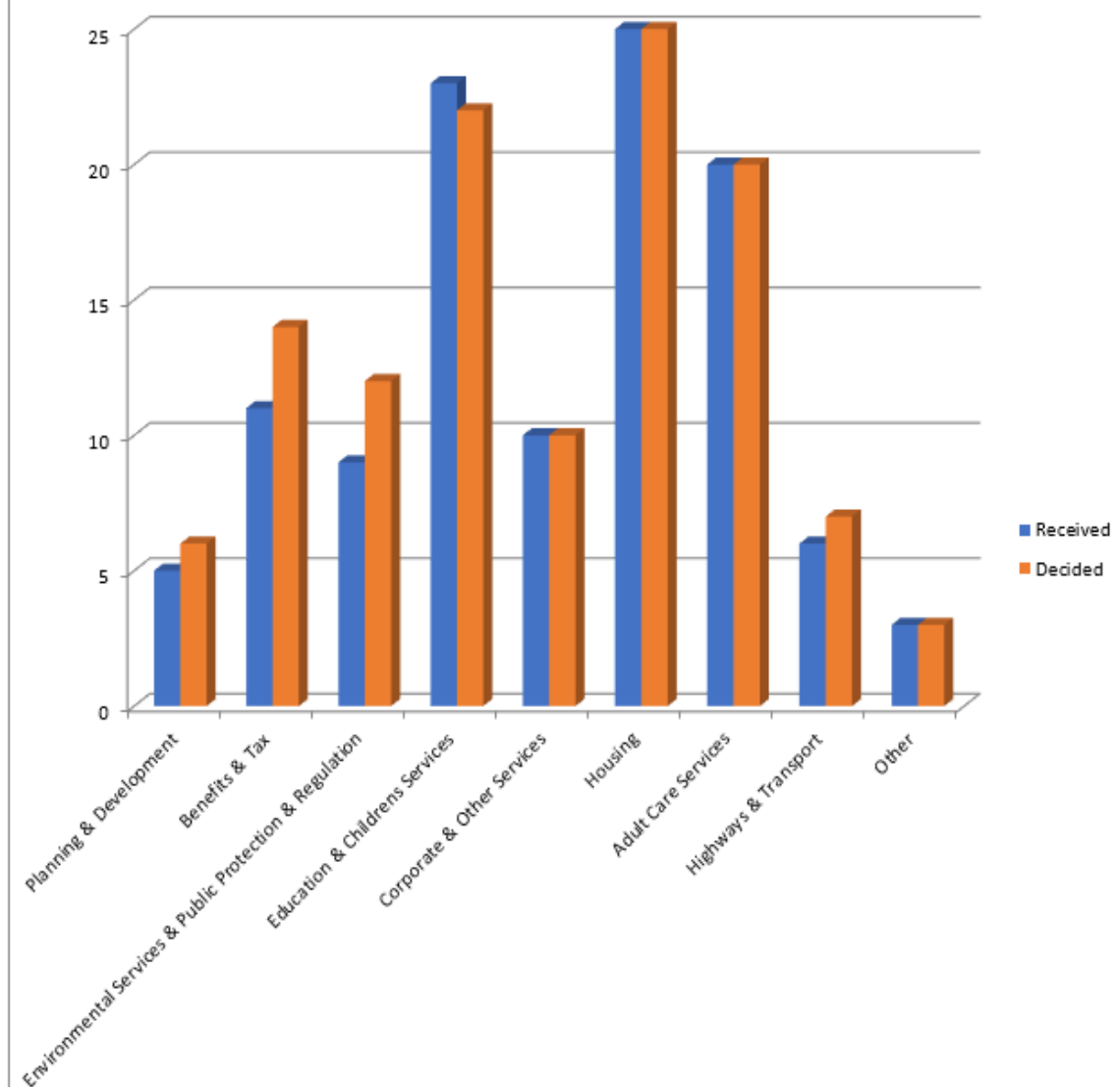
- (i) A fall in complaints in all areas except Environmental Services.
- (ii) Public Protection & Regulation, is a new reporting area for the LGSCO
- (iii) LGSCO upheld 61% of total investigations
- (iv) Highest proportion of upheld complaints around Environmental Services, Public Protection & Regulation (33.3%)
- (v) No LGSCO complaints were upheld for Planning and Development and Corporate and Other Services.

4.4 The chart below shows the comparison in Complaints received per service area, compared to 2018. Most services areas have reduced complaints received by the LGSCO.

2018/2019 Comparison: Complaints Received



Received & Decided



4.5A further difference between the procedures include how the decision outcomes of complaints investigations are recorded, these are:

Leicester City Council's (LCC) outcomes	Ombudsman outcomes
Justified	Upheld
Partially Justified	Upheld
Not Justified	Not Upheld
Rejected	Closed / Rejected / Invalid / incomplete
Triaged (Service request)	Local Resolution/provided advice

We plan to review the Corporate Complaints policy this year (20/21) and as part of the review we will be aligning the outcomes to mirror the reporting of the LGSCO.

5 Outcomes of LGSCO complaints investigated for Leicester

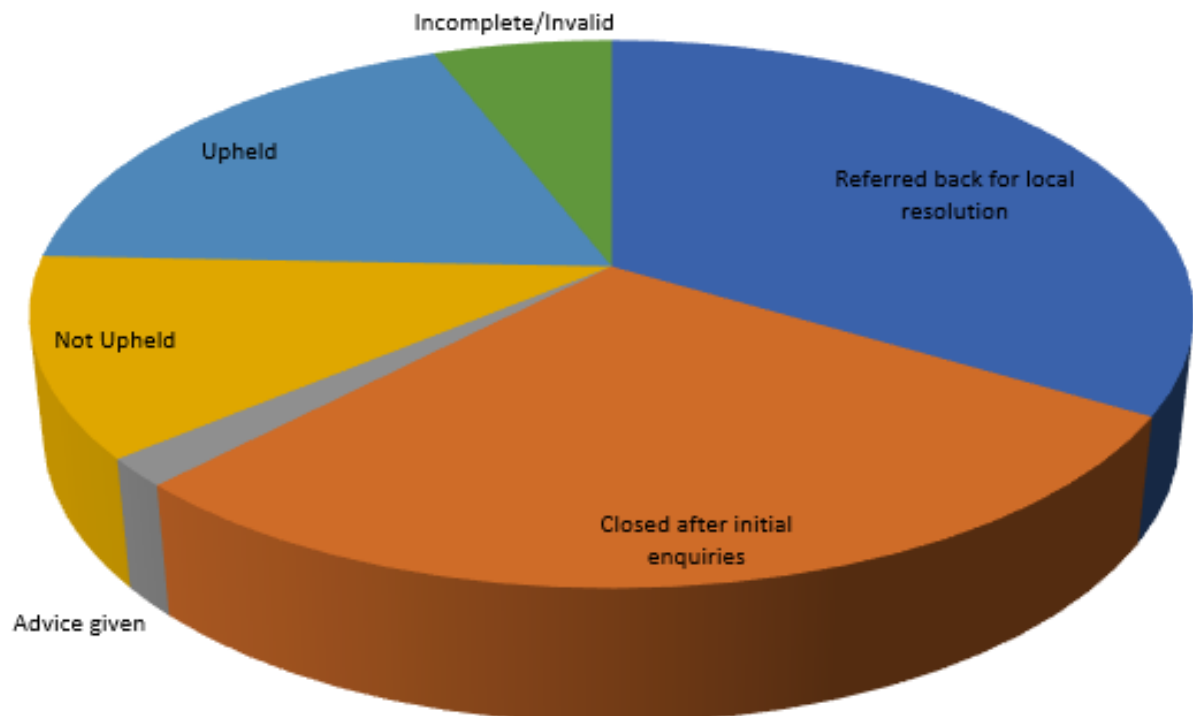
5.1 Below are the detailed outcomes of the 119 complaints where decisions were recorded by the Ombudsman. The way LGSCO presents its data in the report details all complaints submitted in the year irrespective that an outcome of a decision was unknown. At Leicester there were 2 (or 3.4%) of complaints outstanding as undecided in 2019/20 and are not reflected in the detail below.

- 22 complaints (18.5%) upheld. The Ombudsman uses a two-fold test to identify maladministration (also referred to as service failure). It comprises (i) fault coupled with (ii) Injustice. The LGSCO may find against the Council and publishes statements on all such findings. Where, however, the finding is one of maladministration the Ombudsman will issue a public interest report, with which there are statutory duties on us in terms of publication of the report
- 40 (33.6%) were referred to LCC for local resolution i.e. the ombudsman did not investigate the complaint and felt it should be dealt with by the local authority and we should be given a further chance to remedy the situation. In 2 (1.7%) of the 40 cases, the Ombudsman went on to provide indicative findings and invited local resolution i.e. the author is given a further opportunity to remedy the situation based on the Ombudsman's advice.
- 14 (11.8%) were not upheld, no fault was found;
- 34 (26.9%) cases were closed after initial enquiries. This was as a result of the Local Authority resolving the complaint before approaching the LGSCO, and/or the customer receiving a satisfactory response from the Local authority from the initial LGSCO enquiries, customer deciding not to pursue the complaint to the LGSCO
- 7 (5.8%) were rejected as incomplete or invalid. This was due to a variety of reasons i.e. not approached the authority in the first instance, not under the jurisdiction of the LGSCO etc.

5.2 Though the Ombudsman only upheld 22 out of the 119 complaints made to it, the Ombudsman only investigated 36 of the 119 in detail. When looking at the "uphold rate" the Ombudsman only considers the number upheld out of those cases it

investigated in detail. Based on this, the Authority's "uphold rate" is 61% which means more complaints were upheld compared to 2019, where "uphold rate" was 36%.

5.3 The pie chart below details the outcomes for LGSCO complaints for Leicester.



For further breakdown of this detail please see appendix 2, detailing the findings and reporting for Leicester City Council.

6 Compliance and remedies

6.1 Of the 22 upheld complaints, the Ombudsman made recommendations to the Council to offer a remedy the complainant in 13. Recommendations can be time limited. Remedies can be changes to council policy, an offer of compensation or simply a formal apology. LCC accepted and complied with the remedies suggested in all cases but did so outside of the timescale set by the Ombudsman in two cases. Leicester's compliance rate at the point this report was drafted is 100% compared to the national figure of 99.4%. (for more detail on the remedies accepted see appendix 1)

6.2 In comparison with 2018/19 the Ombudsman made recommendations in five cases, and LCC complied with all and within the timescale set by the Ombudsman. Each case is based on its merits and comparisons aren't a straightforward match.

6.3 The following improvements were made to Leicester's services as a result of the advice, recommendations and feedback from the Ombudsman:

- Created and disseminated a policy or procedural guidance to ensure that Continuing Health Care (CHC) referrals are made in a timely fashion for individuals with specific healthcare needs;
- Better record keeping of all noise complaints made outside operating hours by ensuring any messages left on the answer machine are then entered onto the database to action. Previously it was manually checked;
- Reviewed policies on investigation and enforcement of noise nuisance and made changes to ensure investigation and enforcement is picked up at the earliest stage possible;
- Reviewed procedures and properly record decisions of care needs assessments;
- In association with Leicestershire County Council, drew up a protocol to ensure each council is aware of its responsibilities in relation to Education Health and Care planning and provision when a Looked after Child is placed in the City Council's area;
- Reminded staff that what is recorded about parents should be factual and non-judgmental;
- Reminded Housing staff about their obligation to issue written notifications when it accepts, and then ends, the homelessness prevention and relief duties;
- Considered whether invoices were wrongly issued to anyone following non-payment of fixed penalty notices for bins being left out on the street outside of collection times. The outcome resulted in the service apologising to the customer for the inconvenience caused;
- Developed a process for checking whether commercial premises remain unoccupied on a regular basis;
- Reminded Revenues and Benefit officers of the need to ensure accuracy in its letters to customers and the need to promptly identify overpayments which require recovery action. Regular monitoring has supported this improvement;
- Considered the training needs of officers completing or overseeing needs assessments under the Care Act and ensuring officers act in accordance with the Care Act. Training is provided to officers within Social Care regularly. In this complaint the case was passed to another officer to support the customer;
- Set a timeframe for making a decision on its advisory disabled parking bays and information on when the review of its policy will be complete.

The above have all been implemented and shown as embedded in working practices within services.

7 Comparisons

7.1 Leicester's performance with an upheld outcome at 61% (22 upheld, 14 not upheld) compares reasonably well against the other East Midlands cities, and Bristol, the nearest comparator by population, where on average 57% of complaints are upheld. Nationally, the upheld complaints level is 61%.

7.2 At Leicester a) Complaints to the Local Government and Social Care Ombudsman (LGSCO) fell by 12.5%, b) cases brought forward for investigation rose from 25% to 32% and c) remedies issued fell by 18%.

Local Benchmarking							
City	Incomplete / invalid	Advice given	Local resolution	Closed stage 1	Not upheld	Upheld	Upheld rate
Leicester	7	7	40	34	14	22	61%
Nottingham	3	2	29	33	7	12	63%
Derby	3	0	22	18	6	7	54%
Coventry	12	1	39	42	11	11	50%
Bristol	9	6	44	48	13	20	61%
Satisfactory remedy provided by the authority before the complaint reached the Ombudsman							
City	Upheld cases			% of upheld cases			
Leicester	2			9%			
Nottingham	1			8%			
Derby	1			14%			
Coventry	2			18%			
Bristol	2			10%			

8 Future Changes:

8.1 The following improvements/changes are recommended, to Corporate Management Team on 07/10/2020, to improve our practices generally and complaints process. They will also support Leicester's outcome in providing a fair and impartial service delivery across our corporate body and would make a difference to our residents. These are:

- **Continuously reviews to policy and procedures.** Where a recommendation by the ombudsman, the service area will continue to analyse the impact(s) of the change upon service delivery, customer and stakeholder outcomes have been improved and the likelihood of a similar complaint has been mitigated.
- **Regular Monitoring the ombudsman's recommendations.** Corporate Complaints will liaise with the Service Manager, within the relevant service area to the recommendation, to ensure the agreed activity/actions continue to be implemented. This activity will be undertaken a minimum of twice-yearly dependant of the compliance behaviour of the service.
- **Review our approach to remedies.** The remedy needs to be proportionate, appropriate, and reasonable. Similar remedies are appropriate for similar cases, but we must consider each case on its own merits in light of the particular circumstances. Our key principle is that the remedy should, as far as possible, put the complainant back in the position he or she would have been in if the error had not occurred.
- **Better reporting of adverse decisions.** Corporate Complaints will ensure an improved mechanism is in place for when an adverse decision has been made by the Ombudsman. This will clearly identify to the statutory officers responsible for governance of the decision, undertaking the recommendations, identified planned action by the service to meet these requirements; detail the compliance actions and associated timeframe.

9. Financial, legal, equalities, climate emergency and other implications

9.1 Financial implications

There are no direct financial implications arising from this report, although upheld complaints can result in both direct and indirect costs.

Colin Sharpe, Deputy Director of Finance, ext. 37 4081

9.2 Legal implications

It is important to understand that the LGSCO publishes all “Decisions” on their website, and this includes details of cases (suitably anonymised) whether they are upheld or rejected. However in some cases, where they deem there to be a public interests in learning lessons from a complaint they will issue a “public interest report” which will oblige the Council to issue a press release about the findings, report the matter to Elected Members, and report back to the LGSCO on remedial action taken (30 – 31 Local Government Act 1974).

<https://www.LGSCO.org.uk/make-a-complaint/possible-outcomes>

Kamal Adatia, City Barrister and Head of Standards – Ext 37 1401

9.3 Equalities implications

When making decisions, the Council must comply with the Public Sector Equality Duty (PSED) (Equality Act 2010) by paying due regard, when carrying out their functions, to the need to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act, to advance equality of opportunity and foster good relations between people who share a ‘protected characteristic’ and those who do not.

In doing so, the council must consider the possible impact on those who are likely to be affected by the recommendation and their protected characteristics.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

Whilst there are no direct implications arising from this report, having an effective complaint procedure helps to deal with complaints quickly, fairly and consistently. It also has the potential to help make improvements that lead to increased customer satisfaction for service users from across all protected characteristics. Future changes identified in the report need to ensure equality considerations are embedded and put into practice as appropriate.

Sukhi Biring, Corporate Equalities Officer, 454 4175

9.4 Climate Emergency implications

There are no significant climate change implications associated with this report.

Aidan Davis, Sustainability Officer, Ext 37 2284

9.5 Other implications

None

10. Background information and other papers:

11. Summary of appendices:

LGSCO annual report <https://localLGSCOovernmentlawyer.co.uk/governance/396-governance-news/44474-increase-in-systemic-problems-sees-ombudsman-make-12-more-service-improvement-recommendations-in-2019-20>

12.

Appendix 1 – Detail of complaint remedies accepted.

Appendix 2 – Overview of Leicester City Council's statistics

- a. LGSCO Chief Executive letter (PDF)
- b. Complaints received (LGSCO excel spreadsheet)
- c. Complaints decided (LGSCO excel spreadsheet)
- d. Remedy & Compliance outcomes (LGSCO excel spreadsheet)

13. Is this a private report NO

14. Is this a “key decision”? NO