

To: **The Executive**
26 January 2021

**LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN
ANNUAL REVIEW LETTER
Chief Executive**

1 Purpose of Report

- 1.1 To provide an overview and commentary of the Local Government and Social Care Ombudsman (LGSCO) annual review letter, received July 2020.

2 Recommendation

- 2.1 To note the Local Government and Social Care Ombudsman's Annual Review Letter 2020.**

3 Reasons for Recommendation

- 3.1 The annual review letter provides the council with information to help assess the council's performance in handling complaints.

4 Alternative Options Considered

- 4.1 None considered.

5 Supporting Information

- 5.1 The annual review letter from the LGSCO provides local authorities with an overview of the council's performance in complaint handling, covering the financial year April 2019 to March 2020 in this case. In addition, the review provides a general update on resources to support councils.
- 5.2 It is important to note that the LGSCO's data may not match the data collected by the council on complaints. Typically differences between the LGSCO's data and data held by the council reflect that the LGSCO refers a proportion of recorded complaints to the council for local resolution, but complainants may not always pursue the complaint.
- 5.3 The LGSCO have moved away from a simplistic focus on complaint volumes to a focus on the lessons learned and specifically on the wider local improvements that can be achieved through implementing recommendations for improving service delivery for residents. Recommendations made within case investigations are specific and often include a timeframe for completion, allowing the LGSCO to follow up with authorities and seek evidence that recommendations have been implemented.
- 5.4 The data provided in the review this year is significantly simplified compared to previous years and also directs councils to review the online interactive map '[Your Council's Performance](#)'. This is publicly accessible information and allows comparison against other areas.

5.5 In 2019/20 the LGSCO conducted detailed investigations into six cases, this is one fewer than the previous year. This number is amongst the lowest compared to Bracknell Forest Council's CIPFA neighbours, as illustrated in figure 1. It should be noted that due to the low number of complaints, the figures can be skewed significantly and can fluctuate year on year.

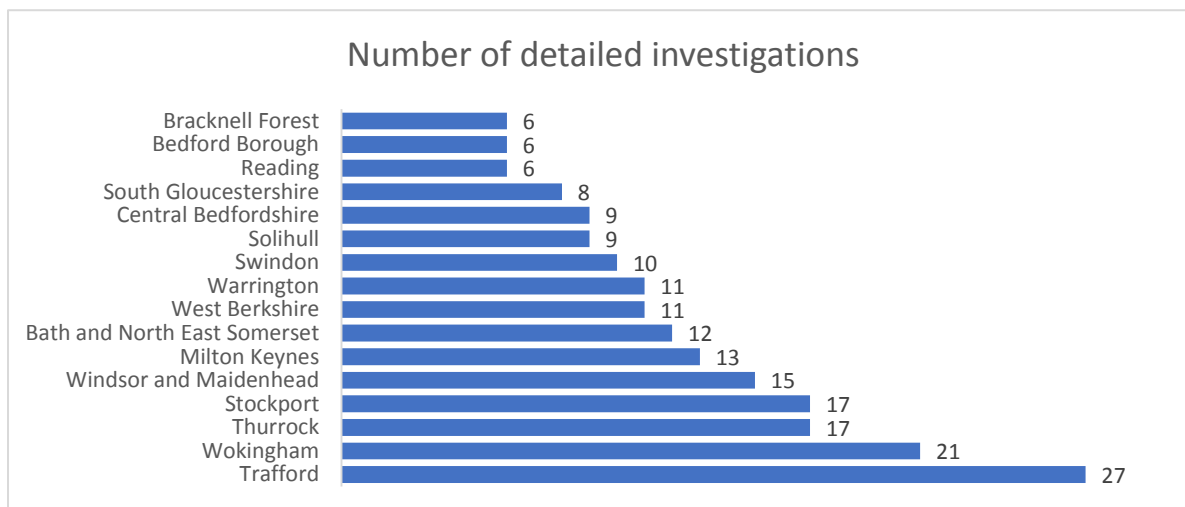


Figure 1. Number of detailed investigations conducted by the LGSCO, comparison of CIPFA neighbours.

5.6 In 2019/20, five of the detailed investigations resulted in the decision to uphold the complaint, this is 83%. This is a notably high percentage among statistical neighbours, as illustrated in figure 2, and much higher than the 14% from last year. However as mentioned above, the proportions can be heavily skewed due to the small number of cases. There is no correlation between the number of cases and the rate they are upheld across other authorities.

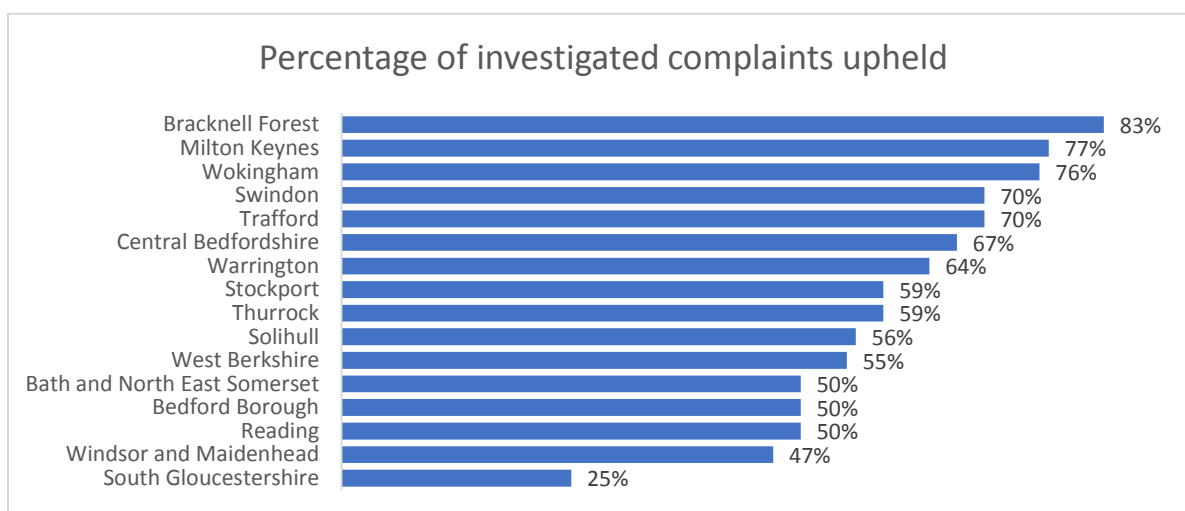


Figure 2. Proportion of detailed investigations with upheld complaints, comparison of CIPFA neighbours.

5.7 A summary of the upheld decisions is included in annex A, please note that one decision is not published by the LGSCO due to confidentiality and has therefore not been included.

5.8 The summaries illustrate that the LGSCO has adopted a much more binary approach in recent years when it comes to finding 'fault'. For example, in one case the LGSCO

has found in the Council's favour on all substantive points within a detailed eighteen page complaint, but has then found 'fault' on one minor technicality even though he also concludes that the minor fault caused no injustice. In another case the LGSCO also accepts that any 'fault' caused no injustice. Such findings before the last two or three years were unlikely to be classified as fault and so the current approach continues a trend that we have drawn to the LGSCO's attention in recent years albeit with little acknowledgement.

- 5.9 In three cases, the outcome of the investigation required implementation of the LGSCO's recommendations. Bracknell Forest Council complied in 100% of these cases.
- 5.10 The LGSCO encourages councils to use these figures as the start of a conversation, and not an absolute measure of the health of the organisation. The council is currently reviewing the approach to managing corporate complaints, including taking consideration for the findings within the LGSCO's letter.
- 5.11 The LGO are unsighted on Stage 1 and 2 complaints so the Executive are reminded that Bracknell Forest Council takes all complaints seriously and looks to resolve complaints at stage 1 or 2 of the complaints process wherever possible to prevent them escalating any further. Complaints and their outcomes are monitored through the Quarterly Service Reports (QSRs). It is also worth remembering that these six investigations are the only ones that have arisen from the many thousands of interactions between the Council and residents throughout the year.

6 Consultation and Other Considerations

Legal Advice

- 6.1 The Local Government and Social Care Ombudsman(LG&SCO) is the independent body responsible for investigating complaints made against public bodies where it is alleged that there has been maladministration causing injustice The LG&SCO was previously known as the Local Government Ombudsman (LGO). On 19 June 2017, the LGO changed its name, in order to increase awareness that the organisation also looks at complaints about all areas of adult social care, including privately arranged or funded care.

The LGSCO can only investigate claims where there has been **maladministration** by a public body that has **caused personal injustice** to the complainant.

There is no specific definition of "maladministration" and, but it can include cases where a public body has taken, or has failed to take, action. If there has been no maladministration, the LG&SCO cannot investigate; it is only allowed to investigate the procedure behind the decision-making. This means that the LG&SCO will not investigate cases where the complainant merely disagrees with a decision that a public body has made. Maladministration is concerned with the manner in which public body decisions were reached and the ways that they were or were not implemented; it is not concerned with the decision itself.

Once maladministration has been established, it must be confirmed that it has led to personal injustice for the complainant. Injustice can include:

- The time and trouble involved in pursuing a complaint against a public body.
- The loss of a right or service, which the complainant is legitimately entitled to.
- Costs associated with pursuing the complaint.

- Inconvenience, worry, distress, and hurt feelings.

It must also be proved that the injustice was caused by the public body and was not merely incidental.

Financial Advice

- 6.2 There are no financial implications arising from this report.

Other Consultation Responses

- 6.3 None

Equalities Impact Assessment

- 6.4 There are no direct impact issues to be considered.

Strategic Risk Management Issues

- 6.5 The information the LGSCO reports to the Council in its annual letter is publicly available. Depending on the findings, there is a potential risk of negative impact on the council's reputation. Therefore, it is imperative that the council continues to review complaints management information and has in place a robust complaint handling procedure to resolve complaints and ensure procedures are complied to.

Background Papers

LGSCO annual review letter 2020.

Contact for further information

Katie Flint - Policy Officer, Chief Executive's Office: 01344 352217

Katie.flint@bracknell-forest.gov.uk

Annex A – Summary of upheld decisions 1 April 2019 to 31 March 2020

Service area: Other	4 March 2020
Mrs X complains about the Council's handling of her complaints under the statutory children's complaints process. The Ombudsman finds the Council at fault. He recommends the Council makes a payment and takes action to consider Mrs X's further complaints in line with the statutory guidance.	
Service area: Child protection	30 September 2019
Miss X complains the Council has not implemented recommendations that were made at stage two and three of the statutory complaint procedure. The Ombudsman finds fault with how the Council considered the recommendations. We have recommended the Council reconsider its decision and make a financial payment to Miss X.	
Service area: Special educational needs	6 September 2019
Mrs X complains about the Council's handling of her son's Education and Health Care Plans and its refusal to investigate her complaint, causing stress and financial loss. The Ombudsman cannot consider any complaints related to Mrs X's appeal to the SEN Tribunal. The Ombudsman finds fault in the Council's refusal to investigate Mrs X's complaint but finds this did not cause significant injustice.	
Service area: Special educational needs	26 April 2019
Mr X and Mrs X complain of failures by the Council in accommodating their grandson, Z. They say this caused their family time and trouble, distress and significant financial costs to secure the right provision. The Council took a week too long to move Z to a new placement. But there was no fault in the Council's actions in those other matters that are within the Ombudsman's jurisdiction, with most of the matters complained of being outside our jurisdiction. The Council will apologise for the delay of one week.	