

To: **The Executive**
20 September 2022

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 2022.

2 Recommendation

- 2.1 **To note the Local Government and Social Care Ombudsman's annual review letter 2022.**

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 2021 to March 2022 in this case.

- 5.2 The overriding message from the LGSCO report is that the council is performance almost exactly in line with the average for other organisations. There were only eight findings of fault by the LGSCO against the council in the year. Given that the organisation is involved in millions of interactions with residents and businesses each year this is a strikingly low number. Nonetheless, it is important to look seriously at those cases where mistakes may have been made so that we can improve further in the future. This report is a part of that process.

- 5.3 In their commentary, the LGSCO refers to a perceived improvement in his relationship with the council this year. The fact that the LGSCO sees an improvement is genuinely to be welcomed. However, it is important to note that the council's approach to complaints and to the LGSCO had not changed during the 2021/22 year. The "improvement" simply reflects the position that we have always held and reflects the fact that we do handle complaints and LGSCO findings effectively and seriously. In the 2021/22 year, we had not found it necessary to challenge the LGSCO's approach and investigations to any significant degree. That too is to be welcomed.

5.4 The data provided in the review letter is available publicly on the online interactive map '[Your Council's Performance](#)'. This information also allows comparison against other councils.

5.4 In 2021/22 the LGSCO conducted detailed investigations into 12 cases at Bracknell Forest Council, which is four more than the previous year¹. This number is around the average compared to the council's CIPFA neighbours, as illustrated in figure 1. The number of complaints a council receives can vary significantly year on year, for example in 2020/21, Reading Council had five complaints investigations (12 this year) and Milton Keynes Council had 25 last year (18 this year).

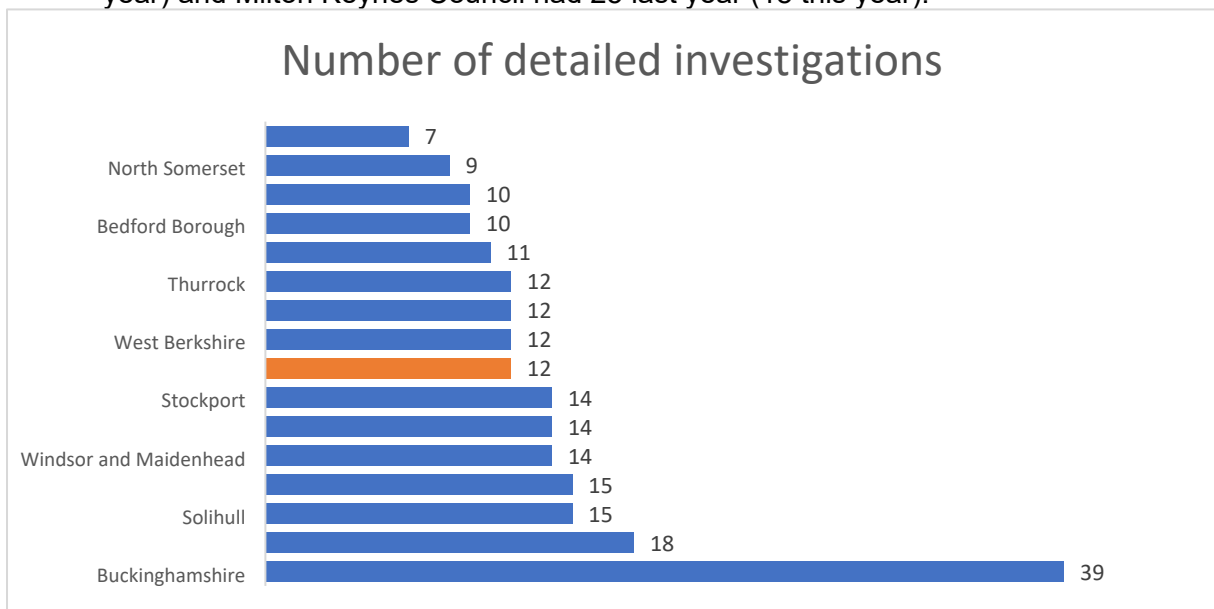


Figure 1. Number of detailed investigations conducted by the LGSCO, comparison of CIPFA neighbours.

5.5 In 2021/22, eight of the detailed investigations (67%) resulted in the decision to uphold the complaint. This is similar to the previous year (63%), aligned with the average (64%) and continues to be lower than the average amongst CIPFA neighbours as illustrated in figure 2. There is no correlation between the number of cases and the rate they are upheld across other authorities, nor a correlation between percentage upheld last year compared to this year.

¹ During the previous year a lower than usual number of complaints were processed due to the coronavirus pandemic. The LGSCO stopped operations for around three months.

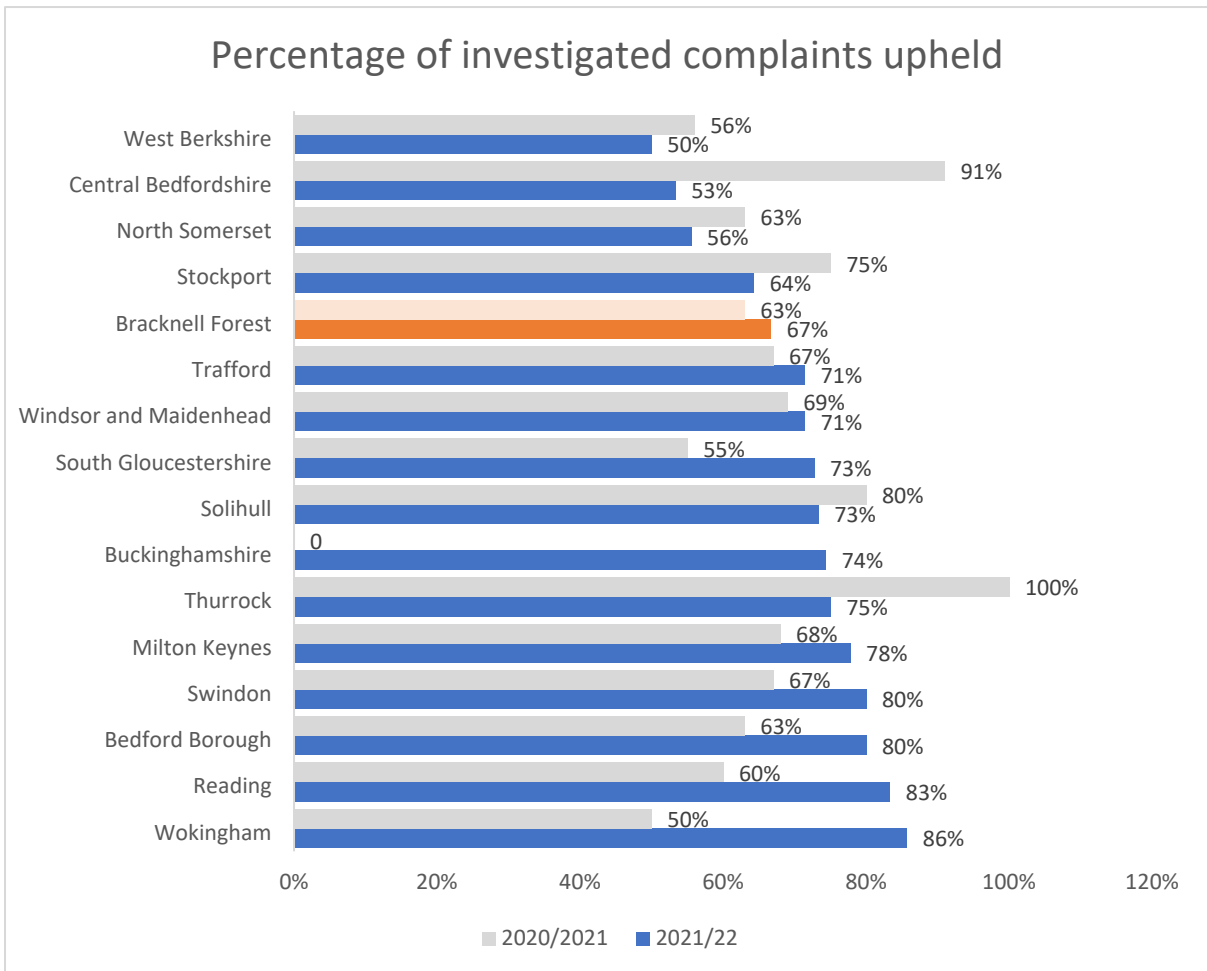


Figure 2. Proportion of detailed investigations with upheld complaints, comparison of CIPFA neighbours.

5.6 The majority of the upheld complaints were linked to education and children's services which is the case for many upper tier authorities. This was a similar theme to last year. In 2021/22 there was an increase in complaints related to Planning & Development, with two upheld and two not upheld. This is illustrated in figure 3.

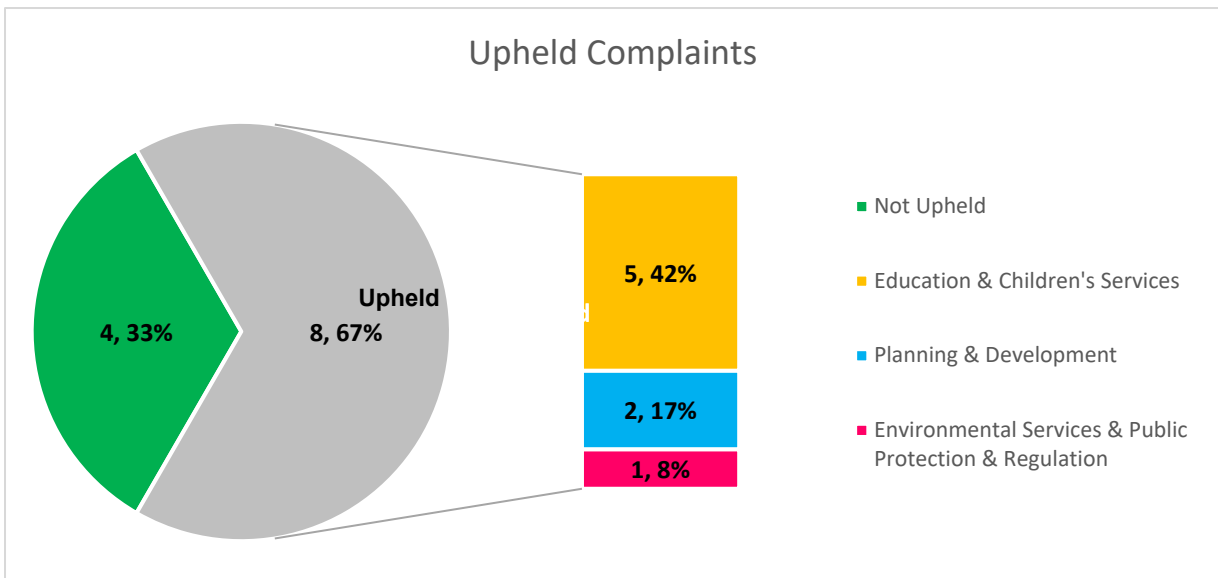


Figure 3. Services related to upheld complaints.

- 5.7 A summary of the upheld decisions is included in annex A. The summaries illustrate some themes to the complaints, particularly related to Special Educational Needs (SEN). Lessons continue to be taken from the findings and the service has put in place improvements to address conclusions where there has been the opportunity to develop the service.
- 5.8 The higher number of complaints last year in areas such as blue badges has not been repeated, showing good service improvement.
- 5.9 In seven 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 continuing to review the approach to managing corporate complaints, taking into consideration the findings within the LGSCO's letter.
- 5.11 Since last year's letter, the council has put in place additional resourcing to manage complaints effectively. This aligns well with the recommendations set out in the letter for all councils to review the capacity and visibility of complaints handling.
- 5.12 The LGSCO 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).

6 Consultation and Other Considerations

Legal Advice

- 6.1 The Local Government and Social Care Ombudsman (LGSCO) is the independent body responsible for investigating complaints made against public bodies where it is alleged that there has been maladministration causing injustice.

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

There is no specific definition of "maladministration", but it can include cases where a public body has taken, or has failed to take, action. If there has been no maladministration, the LGSCO cannot investigate; it is only allowed to investigate the procedure behind the decision-making. This means that the LGSCO 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. 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 2022](#)

Contact for further information

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Annex A – Summary of upheld decisions 1 April 2021 to 31 March 2022

Service area: Blue Badges	5 May 2021
Mrs X complains the Council failed to properly consider an application she made for a blue badge for her son. We found the initial explanation of the Council's decision was lacking in detail, but we found the decision the Council ultimately made not to grant a blue badge was one it was entitled to reach. We recommended the Council should improve the way it documents its approach to considering applications.	
Service area: Special educational needs	11 June 2021
Mr X complains the Council failed to provide full time education for his son. He also complains the Council failed to find his son a school place and delayed in completing an EHC assessment. We find fault with the Council for not issuing the final EHC plan within the statutory deadline. However, the fault did not cause any significant injustice. We also find fault with the Council for not properly considering whether part time education was more suitable for the child. We have made recommendations.	
Service area: Special educational needs	7 June 2021
Ms X complains the Council reviewed her son's Education, Health and Care Plan but then refused to recognise it as a review, which denied her a right of appeal to a tribunal. We uphold the complaint, finding the Council's reasons for not recognising the review being incompatible with relevant legislation and guidance. We recommend the Council apologises, pays Ms X £250 for denying her a right of appeal to a tribunal and undertakes training with its staff.	
Service area: Planning	29 November 2021
Mr X complained the Council failed to properly deal with planning applications by his neighbour and failed to properly respond to reports of noise and parking issues. We found there was some fault in the consideration of noise reports. The Council apologised for this. We found no fault in the decisions on Mr X's neighbour's planning applications.	
Service area: Planning	26 January 2022
Mr X said the Council was at fault for underestimating the impact on his property of an extension on his neighbour's house. He also said it wrongly accepted his neighbour's application to amend a planning application using the wrong legislation. The Council was at fault for accepting an application to amend the plans using the wrong legislation. This caused Mr X injustice as he was put to time and trouble researching the law. However, the Council was not at fault for its consideration of the impact of the extension. The Council has agreed to pay Mr C a sum in recognition of the injustice caused.	
Service area: Special educational needs	10 February 2022
The complainant said the Council significantly delayed issuing her son's Educational and Health Care Plan (EHCP) and failed to communicate with her throughout the process. The Council has accepted it was at fault and has agreed to remedy the injustice.	
Service area: Complaints	9 March 2022
Ms X complains the Council failed to complete the recommendations made at stage two and three of the children statutory complaint procedure. Ms X said this caused her significant distress. We find some fault with the Council for the delays in completing some of the recommendations. We have made some recommendations for the Council to remedy the injustice caused.	
Service area: Environmental Health - Noise	14 March 2022
The complainant said the Council failed to investigate a noise nuisance correctly which caused her distress. She said the noise from her neighbour's flat affected her health. She also complained about the way the Council dealt with her complaint. We found fault only with the way the Council handled this complaint. We have made recommendations.	