

12 October 2020**Agenda Item: 4****REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE
AND EMPLOYEES****LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS
FEBRUARY TO SEPTEMBER 2020****Purpose of the Report**

1. To inform the Committee about Local Government & Social Care Ombudsman's (LGSCO) decisions relating to the Council since the last report to Committee up to 14th September 2020

Information

2. Members have asked to see the outcome of Ombudsman investigations regularly and promptly after the decision notice has been received. This report therefore gives details of all the decisions received since the last report to this Committee in February. There were no Committee meetings for a period during the initial stages of the Covid 19 crisis, and in addition the LGSCO stopped accepting new complaints, and also refrained from contacting Councils with any issues that required a response. The LGSCO is now working normally again.
3. The LGSCO provides a free, independent and impartial service to members of the public. It looks at complaints about Councils and other organisations. It only looks at complaints when they have first been considered by the Council and the complainant remains dissatisfied. The LGSCO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the Ombudsman finds that something has gone wrong, such as poor service, a service failure, delay or bad advice and that a person has suffered as a result, the LGSCO aims to get the Council to put it right by recommending a suitable remedy.
4. The LGSCO publishes its decisions on its website (www.lgo.org.uk/). The decisions are anonymous, but the website can be searched by Council name or subject area.
5. A total of twenty decisions relating to the actions of this Council have been made by the Ombudsman in this period. Appendix A to this report summarises the decisions made in each case for ease of reference, and Appendix B provides the full decision statement in each case. There are so many decisions because there has not been an opportunity to report them to Committee for some time.
6. Following initial enquiries into six cases, the LGSCO decided not to continue with any further investigation because there was insufficient evidence of fault or injustice and/or matters were

the subject of legal proceedings. One complaint was also made late (the LGSCO will not usually investigate complaints made over a year after the alleged fault).

7. Full investigations were undertaken into fourteen complaints. Appendix A provides a summary of the outcome of each investigation. Where fault was found, the table shows the reasons for the failures and the recommendations made. If a financial remedy was made the total amount paid or reimbursed is listed separately. (Reference and page numbers refer to the information in Appendix B). In six cases no fault was found.
8. Fault was found in three investigations undertaken in relation to adult social care complaints. In the first case (page 5, 19 004080) failings were found in the domiciliary care, given to a centenarian lady who is also registered blind and with a hearing impairment. The provider did not respond appropriately to issues raised and the Council was criticised for not monitoring the agency's performance robustly. Apologies were recommended and given, a refund of contributions made and a payment made to the complainant for time and trouble and distress. The payment was made from the adult social care budget. In addition, the Quality Audit Tool, used to monitor providers' performance, has been amended to ensure that providers respond positively and promptly to issues raised.
9. In a second case (page 14, 19 000929) the Council reduced the complainant's support package, and fault was found in that the assessments of him did not clearly explain what changes in need or circumstances had led to the conclusion a reduction was appropriate. The Council re-instated the original provision and agreed to apologise.
10. The final adult's investigation (page 72, 19 012117), concerned the information provided at the start of a home care package, and delay in cancelling the package. No finding was made about the information given at the start of the care package, however fault was found as there was no review of the package after 6 weeks (as our procedure says there should be) which might have prompted the family to cancel the care package at that point. As it was charges accrued and the recommendation made that half of the charges should be waived. An audit is currently being conducted to determine that 6 week reviews are being conducted.
11. Two of the investigations relating to children's services concerned the Integrated Children's Disability Service. In one complex case fault was found in relation to delay and lack of educational provision (during a specific period) for a child with severe disabilities and a life limiting condition, in not providing a carer's assessment for the complainant father, and failings in the handling of the complaint. No fault was found in relation to the handling of a safeguarding referral, and to the provision of education for a different period as the offer of education was declined by the complainant. A payment of £3,900 for loss of opportunity was made from the children's social care budget and £350 from the Complaints team budget. The second case (page 42, 19 011813) also found delay in the issuing of a revised Education and Health Care Plan, resulting in loss of provision and absence from school. The Council made a financial payment to the young person and to her parents for their time and trouble. The Council had already allocated additional resources and established a Review Team to deal with the backlog of cases. All reviews are now meeting the 4 week statutory timescale.
12. One case (page 23 19 0142500) concerned the recalculation of a special guardianship allowance paid to a grandmother for the care of her grandson. In the course of responding to the LGSCO enquiries the Council acknowledged that its policy could be clearer, and explained

it was already conducting a full review of the policy towards family and friends foster carers. The Council therefore offered a remedy of a recalculation of the allowances which was accepted by the LGSCO.

13. The final investigation relating to children's services (page 48 19 016569) concerned a decision made in the complaints team not to progress a complaint to stage 2 of the children's complaints procedure. The LGSCO said that complainants have the right to progress automatically through all stages. We have therefore carried out a stage 2 investigation as recommended.
14. One investigation related to tree cutting, (page 69, 19021076). No fault was found with the Council's assessment that the tree was safe and therefore required no further action on the part of the Council; however the fault was that the Council applied a blanket policy of not allowing private contractors to work on trees, rather than considering whether the work in this individual case could be permitted with the appropriate safeguards (paid for by the complainant). The Council has now confirmed that, with some re-assurances, it will allow the work to go ahead.

Statutory and Policy Implications

15. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

16. The decisions attached are anonymised and will be publicly available on the Ombudsman's website.

Financial Implications

17. Financial remedies will be paid from the following budgets:
 - Adults - £2,824.83 plus an amount still being calculated for one case
 - Children's - £6,650
 - Complaints and Information - £350

Implications for Service Users

18. All the complaints were made to the Ombudsman by service users, who have the right to approach the LGSCO once they have been through the Council's own complaint process.

RECOMMENDATION/S

That members consider whether there are any actions they require in relation to the issues contained within the report.

Marjorie Toward

Monitoring Officer and Service Director – Customers, Governance and Employees

For any enquiries about this report please contact:

Jo Kirkby, Team Manager – Complaints and Information Team

Constitutional Comments (HD (Standing))

Governance & Ethics Committee is the appropriate body to consider the content of this report. If the Committee resolves that any actions are required, it must be satisfied that such actions are within the Committee's terms of reference.

Financial Comments (RWK 28/09/2020)

The decisions detailed in the report and the appendix have resulted in financial remedies totalling £9,824.83. A sum of £2,824.83 has been funded from the budget for adult social care, £6,650 from the budget for children's social care, and £350 from the budget for the Complaints team.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All