

Report to Overview and Scrutiny Board

Local Government Ombudsman Annual Review of Complaints 2017/18

Portfolio Holder:

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Purpose of the Report

To update the Overview and Scrutiny Board about Council performance in relation to enquiries received from the Local Government and Social Care Ombudsman.

Recommendations

It is recommended that the Overview and Scrutiny Board consider the report and comment as appropriate.

Local Government Ombudsman Annual Review of Complaints 2017/18

1 Background

1.1 The Council deals with complaints about the services it provides according to the requirements of three different sets of legislation:

- The Local Government Act 1974 for corporate complaints
- The Children Act 1989 for children’s social care complaints
- The Local Authority Social Services and NHS Complaints Regulations 2009 for adult social care complaints.

All of these procedures have the Local Government and Social Care Ombudsman (LGO) as the last stage in the process. The Ombudsman’s role is to enquire into cases where the Council and the complainant still do not agree after the Local Authority’s complaints procedure has been exhausted and the complainant still wants the case to be reviewed. Across all agencies within the jurisdiction of the LGO, this means around 20,000 cases are reviewed nationally each year. For Oldham Council specifically, 62 cases were reviewed in 2017/18. This currently represents 4.9% of the overall annual Council complaint caseload, as illustrated in the table below.

Table 1: The Number of LGO Enquiries and Oldham Council complaints 2017/18.

	Oldham Council complaints case load (2017/18)	Cases referred to LGO by complainant	Cases formally investigated by LGO
Number	1,261	62	8
Percentage	100%	4.9%	0.6%

1.2 The LGO has made a number of recent changes to how it reports upheld cases. The first was to change the way it describes a decision in favour of the complainant from a view of ‘maladministration causing injustice’ to simply recording the case as ‘upheld’. This was a welcome change as it was widely felt that this was more understandable for users of their services and other stakeholders. In making this change, the LGO also felt that it should only ascribe a decision of upheld to a case that had received the full scrutiny of an investigator within the organisation. Out of the 20,000 or so cases the LGO receives each year, only a fraction of these cases go forward for investigation. This is because, for a large proportion of complaints, LGO officers find that a case can be decided without the need to make a formal enquiry. Where cases cannot be decided at this ‘assessment’ stage, they are passed forward for investigation, which usually means a requirement to make formal enquiries of the body under their jurisdiction. Only the cases that complete this phase are then recorded as upheld or not upheld.

1.3 The LGO started releasing its annual reviews in 2014, publishing data about Local Authority complaints performance. Since 2014 upheld complaint rates across the country have increased from 46% of detailed investigations to 57% in 2018. In the same period upheld complaints about Children’s and Education services have increased from 38% to 65% nationally.

1.4 In addition to the annual review of complaints, the LGO writes to each Local Authority’s Chief Executive each year to set out the Council’s annual performance on complaints. This information can be a useful starting point for Members to scrutinise the performance of the Council and issues affecting local people.

2 Current Position

- 2.1 Oldham Council's performance for 2017/18/ is set out in Table 2 below which shows what happened in relation to the 62 cases reviewed by the Ombudsman.

Table 2: Oldham Council 2017/18

Decisions made				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
4	3	31	16	2	6	75%	62
Notes Our uphold rate is calculated in relation to the total number of detailed investigations. The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.				Complaints Remedied			
				by LGO	Satisfactorily by Authority before LGO Involvement		
				2	2		

Number of Complaints

- 2.2 Oldham's performance in relation to the number of complaints received by the LGO is good when compared with other GM Authorities. It is worth noting that the number of complaints received by the LGO is not necessarily an indicator of the good performance of a Council. For example a high number of complaints could indicate a Council that is open to receiving feedback and keen to signpost the role of the LGO to its residents, not just be indicative of problems with services. Equally, it could be an indicator of poor performance in some areas. Oldham Council does work hard to resolve cases at an early stage in the complaints process to avoid the need for residents to pursue their complaints further. The overall number of upheld cases determined within the Council's complaints policy indicates a willingness to take responsibility when things go wrong and work with the resident to resolve the issue appropriately.
- 2.3 Table 3 below compares the review rate of the Council to that of the other GM Authorities in 2017/18. It shows that, comparatively, the number of complaints referred to the Ombudsman was towards the lower end of the range.

Table 3 - GM Authorities 2017/18 - Number of LGO complaints

Authority	Total Complaints Reviewed by the LCO
Bury	40
Rochdale	48
Oldham	62
Trafford	64
Salford	65
Bolton	66
Stockport	70
Wigan	75
Tameside	75
Manchester	160

Percentage of Complaints Closed before Investigation

- 2.4 The percentage of complaints closed for 2017/18 before investigation indicates the percentage of cases that the Ombudsman decides does not need a further investigation. This could be because further investigation following the work carried out by the Local Authority would not be an effective use of public funds. The Council consistently performs well in the sense that only very few complaints, compared to other AGMA authorities, are brought forward for further investigation. For those Councils that have a low proportion of cases that are brought forward for investigation, this suggests that they already use a robust system for determining the outcome of complaint cases locally, because there is no requirement for the LGO to investigate further to determine an outcome.

Table 4: Cases Closed by LGO before Investigation 2017/18

Authority	Cases Closed Before Investigation (%)
Oldham	87.10
Bury	85.00
Wigan	80.00
Rochdale	79.17
Bolton	78.79
Trafford	78.13
Manchester	76.88
Stockport	74.29
Tameside	69.33
Salford	67.69

Upheld Complaints

- 2.5 Cases are judged to be upheld where the LGO has completed a detailed investigation and found evidence of fault, or found that the organisation accepted fault early on in the investigation. In 2017/18, 75% of the cases considered for investigation were upheld in Oldham. This is an improvement in the 77% upheld in 2016/17. Although performance is improving in this area, it was disappointing to note that of the 6 upheld cases, 2 had already been investigated and upheld by the Council (so the LGO was effectively rubber stamping the investigatory work and decision reached by the Local Authority at the initial complaint stage). One case was not actually investigated by the LGO at all. One further case related to 2016/17 but was re-issued in 2017/18 because of a change in the law.
- 2.6 If the cases included in the statistics had only taken account of investigations carried out by the LGO where the Council had been at fault in 2017/18, this would have meant that, in contrast to the LGO's view of the Council's performance (8 investigated, 6 upheld, equal to 75%), a more reasonable view of performance would be to say that the upheld rate was lower (7 investigated, 3 upheld, equal to 42.8%). Clearly, other Local Authorities may have similar views about their own upheld cases but this additional information is provided so that Members have a better view of the context behind the published figures. The number of cases the LGO had chosen to investigate for Oldham is also comparatively low (down from 13 cases of which 10 were upheld in 2016/17) and this is a positive indication of the effectiveness of complaints handling at Oldham. Table 5 shows comparative information on upheld and not upheld cases for the Council and other 9 GM Authorities.

Table 5 Upheld Complaints 2017/18

Authority	Cases Not Upheld	Cases Upheld	Upheld Rate (%)
Salford	14	7	33
Trafford	7	7	50
Tameside	11	12	52
Bolton	6	8	57
Stockport	7	11	61
Wigan	5	10	67
Manchester	10	27	73
Oldham	2	6	75
Rochdale	2	8	80
Bury	1	5	83

3 Further information

- 3.1 The LGO intend in future years to move away from a focus on complaints volumes and pay more attention to the lessons that can be learned from complaints and the wider improvements that can be achieved for local residents. With that in mind, there is an intention to provide further publication of investigations and data will be made available about positive outcomes to local services.
- 3.2 The LGO is keen that scrutiny Members play an active role in holding their Local Authority to account on complaints and have created a wide range of information to support scrutiny Members to carry out the scrutiny function for complaints handling. This can be found at www.lgo.org.uk/scrutiny.

