

## AUDIT AND RISK ASSURANCE COMMITTEE

19 September 2019

<b>Subject:</b>	The Local Government and Social Care Ombudsman's and Housing Ombudsman's Services - Annual Review for the Year Ending 31 March 2019
<b>Director:</b>	Director – Law and Governance and Monitoring Officer Surjit Tour
<b>Contribution towards Vision 2030:</b>	
<b>Contact Officer(s):</b>	Maria Price – Service Manager Law and Assurance ( <a href="mailto:maria_price@sandwell.gov.uk">maria_price@sandwell.gov.uk</a> )  Julia Lynch – Corporate Business Partner ( <a href="mailto:julia_lynch@sandwell.gov.uk">julia_lynch@sandwell.gov.uk</a> )

### **DECISION RECOMMENDATIONS**

That the Audit and Risk Assurance Committee considers and notes the Local Government and Social Care Ombudsman's (LGO) Annual Review appended to this report for the year ending 31 March 2019.

#### **1 PURPOSE OF THE REPORT**

- 1.1 This report is to present the LGO's Annual Review for the year ending 31 March 2019 which is appended to this report (Appendix 1).
- 1.2 The Annual Review provides a summary of the complaints that the LGO has dealt with in relation to the council.

- 1.3 It is noted from the Annual Review that the LGO received 115 complaints and enquiries about the council in 2018/19. The Council received 55 of these complaints to deal with. The LGO carried out 17 detailed investigations of which 10 cases were upheld. Comparisons to previous years' complaints and enquiries are stated in Table 1 below.
- 1.4 The Housing Ombudsman Service ('HOS') does not publish an annual review report but their annual statistics are detailed in table 1 below.

Table 1

Year	Number of Complaints		
	LGO	HOS	TOTAL
2018/19	115	43	158
2017/18	92	34	126
2016/17	103	50	153
2015/16	104	38	142

- 1.5 From the statistical information provided by the HOS, a total of 43 enquiries and complaints were received concerning the council in 2018/19. There were 8 detailed investigations undertaken of which 5 were upheld in favour of the Complainant.
- 1.6 All Chief Officers have been advised of the Annual Review and reminded of the importance of dealing with and responding to the Ombudsman's complaints promptly as well as ensuring all appropriate and necessary lessons are learned to ensure continuous service improvement.

## 2 **IMPLICATIONS FOR SANDWELL'S VISION**

- 2.1 Ambition 10 of Sandwell's Vision 2030 is relevant. Recommendations from the Ombudsman assist with service improvement and good administrative practice.
- 2.2 It is important that the council considers the nature of the complaints made and their outcomes to ensure that the council's reputation is not adversely affected and where appropriate remedial steps taken to prevent the recurrence of such complaints.

- 2.3 This year, the LGO have provided statistics in relation to the Council's compliance with their recommendations. This collated data will aid the scrutiny of how the Council has dealt with complaints.
- 2.4 In one matter dealt with this year by the HOS, they recommended that we clarify our Housing Complaints Policy in relation to the correct process that should be followed when making a complaint. The Council acted upon this recommendation and implemented changes to the Housing Complaints Policy to provide greater clarity to service users.

### 3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 The LGO's Annual Review for the year ending 31 March 2019 (Appendix 1) provides a summary of the complaint outcomes that the Ombudsman has dealt with in relation to the Council.
- 3.2 The LGO received 115 complaints and enquiries about the Council during the year 2018/19. According to Council records 19 of these matters were preliminary matters raised with the council, whereas the remainder were accepted and dealt with by the LGO itself.
- 3.3 A breakdown of the service areas of the complaints and enquiries is provided in Table 2 below.

**Table 2**

<b>Service Area</b>	<b>Complaints received by LGO</b>	<b>Preliminary matters (referred to the Council) (see para 3.4 below)</b>
Adult Care Services	15	2
Benefits and Tax	25	3
Corporate & Other Services	6	
Education and Children's Services	23	3
Environmental Services	9	
Highways and Transport	12	6
Housing	21	4
Planning and Development	1	1
Other	3	
<b>TOTAL</b>	<b>115</b>	<b>19</b>

3.4 The preliminary complaints and enquiries were either of a general nature or matters that involve initial enquiries being raised with and addressed by the council, which may progress to an investigation.

### 3.5 Compliance

3.6 For the first time, this year the LGO in their Annual Review have included data on the authorities' compliance with their recommendations. This collated data will aid the scrutiny of how the Council has dealt with complaints.. A breakdown of this data is included in Table 3 below.

Table 3

<b>Service Area</b>	<b>Remedy</b>	<b>Satisfaction with Compliance</b>
Education & Children's Services	Apology Financial Redress: Quantifiable Loss Procedure or policy change/review	Remedy complete and satisfied
Benefits and Tax	Apology Financial redress: Avoidable distress/time and trouble Provide information/advice Procedure or policy change/review	Remedy complete and satisfied
Education and Children's	Apology Financial Redress: Quantifiable Loss Financial redress: Avoidable distress/time and trouble Procedure or policy change/review Training and guidance	Remedy completed late

### 3.7 Complaint Outcomes

#### LGO Matters

3.8 The LGO has reported that 115 decisions were made for matters that they considered. This included 14 detailed investigations which resulted in 4 being upheld and 4 not being upheld. A breakdown of the LGO decisions is provided in Table 4 below.

**Table 4**

<b>Decision Type</b>	<b>Narrative</b>	<b>Number</b>
Detailed Investigations: Cases Upheld	Cases upheld in favour of the Complainant result in findings of maladministration, and or injustice and the council must carry out remedial or follow up action and in some cases payment as a resolution. Some cases can result in no further action required	<u>4 upheld:</u>  Maladministration and Injustice- 4  Injustice – 2  Maladministration – 0
Detailed Investigations Cases Not Upheld	Cases not upheld have not been found in favour of the Complainant and result in findings of maladministration and or no further action being required by the Council.	4 <u>not upheld:</u>  No Maladministration – 2  Other – 2
Advice Given	Advice is provided to the complainant by the LGO and no formal letter is issued to the council.	1 Advice is provided by the LGO and does not require any investigation by the council.
Closed after Initial Enquiries	The council receives a letter informing us that they received a complaint and that no further action is required or the matter is out of	20 These cases do not require any investigation by the Council it has been closed by the LGO.

	LGO jurisdiction.	
Referred for Local Resolution	No formal letter is issued to the council.	4 These cases do not require any investigation by the council as the complainant has been advised to revert to the council.
Incomplete/Invalid	No formal letter is issued to the council.	4 These cases do not require any investigation by the council as the nature of the complaint is incomplete / invalid.

## HOS Matters

- 4.1 With regards to HOS matters, there were 8 detailed investigations and five were determined in favour of the Complainant. A breakdown of the HOS decisions is provided in Table 5 below.

**Table 5**

<b>Decision Type</b>	<b>Narrative</b>	<b>Number</b>
Detailed Investigations: Cases Upheld	Cases upheld in favour of the Complainant	<u>3 upheld:</u> Maladministration – 1  Partial Maladministration – 2
Detailed Investigations Cases Not Upheld	Cases not upheld have not been found in favour of the Complainant	<u>2 no outcome:</u>  No Maladministration – 2.
Cases determined as Outside HOS Jurisdiction	These are cases that the HOS cannot investigate as the matter is outside their jurisdiction.	2 Outside jurisdiction
Redress	HOS found there had been sufficient redress made by the council	1 Redress

#### **4. CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

There are no consultation implications arising.

#### **5. ALTERNATIVE OPTIONS**

There are no alternative options arising. The council is obliged to formally receive and consider the LGO Report.

#### **6. STRATEGIC RESOURCE IMPLICATIONS**

6.1 There are no resource implications arising directly because of this report save for compensatory payments that have been made in relation to local settlements which amount to £3533.50 for the LGO's matters. A detailed breakdown of this sum is set out at Appendix 2.

6.2 In relation to the HOS there were three payments made with a total sum of £1577.62. £730 was made last year. Please see Appendix 3.

6.3 Although there has not been a significant reduction in the level of compensatory payments made by the council this year, there has been a downward trend since 2015-2016 where the compensation paid out was £8,750.00. Please see Appendix 4 for a further breakdown.

#### **7 LEGAL AND GOVERNANCE CONSIDERATIONS**

7.1 The Local Government Act 1974 defines two main statutory functions for the Ombudsman:

- To investigate complaints against Councils and other authorities; and
- To provide advice and guidance on good administrative practice.

7.2 Since 2010, the LGO have already operated with jurisdiction over all registered adult social care providers to investigate complaints about care funded and arranged privately. In July 2017, the LGO changed its name to include the 'Social Care Ombudsman' to recognise the social care sector.

7.3 The LGO has stated in their annual letter that sharing and learning from their investigations and supporting the democratic scrutiny of public services continues to be one of their key priorities. The LGO has created a dedicated section on their website which contains a host of information to help scrutiny committees and Councils to hold their authority to account. This can be found at [www.org.uk/scrutiny](http://www.org.uk/scrutiny).

## **8 EQUALITY IMPACT ASSESSMENT**

8.1 There are no equality issues arising from this report.

## **9 DATA PROTECTION IMPACT ASSESSMENT**

9.1 There are no data protection issues arising from this report.

## **10 CRIME AND DISORDER AND RISK ASSESSMENT**

10.1 There are no direct crime and disorder issues arising from this report. Relevant risk management issues have been detailed within the main body of the report.

## **11 SUSTAINABILITY OF PROPOSALS**

11.1 This report does not set out any proposals.

## **12 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

12.1 There are no direct health and wellbeing implications arising from this report. However, recommendations from the LGO assist with service improvement and good administrative practice.

## **13 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

13.1 There is no direct impact on the council's asset management plan or register arising from this report.

## **14 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

14.1 The council is obliged to consider the Annual Report of the LGO.

14.2 Outcomes from complaints represent an opportunity for the council to learn and improve its services.

## **15 BACKGROUND PAPERS**

None

**16 APPENDICES:**

Appendix 1	LGO Annual Review Letter
Appendix 2	Table of Financial Payments April 2018- March 2019 – LGO
Appendix 3	Table of Financial Payments April 2018- March 2019 HOS
Appendix 4	Table of Financial payments for April 2017 – March 2018 LGO and HOS

**Surjit Tour  
Solicitor  
Director – Law and Governance and Monitoring Officer**

## APPENDIX 1

### LGO ANNUAL REVIEW LETTER

24 July 2019

*By email*

Jan Britton  
Chief Executive  
Sandwell Metropolitan Borough Council

Dear Mr Britton

#### **Annual Review letter 2019**

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2019. The enclosed tables present the number of complaints and enquiries received about your authority, the decisions we made, and your authority's compliance with recommendations during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

#### **Complaint statistics**

As ever, I would stress that the number of complaints, taken alone, is not necessarily a reliable indicator of an authority's performance. The volume of complaints should be considered alongside the uphold rate (how often we found fault when we investigated a complaint), and alongside statistics that indicate your authority's willingness to accept fault and put things right when they go wrong. We also provide a figure for the number of cases where your authority provided a satisfactory remedy before the complaint reached us, and new statistics about your authority's compliance with recommendations we have made; both of which offer a more comprehensive and insightful view of your authority's approach to complaint handling.

The new statistics on compliance are the result of a series of changes we have made to how we make and monitor our recommendations to remedy the fault we find. Our recommendations are specific and often include a time-frame for completion, allowing us to follow up with authorities and seek evidence that recommendations have been implemented. These changes mean we can provide these new statistics about your authority's compliance with our recommendations.

I want to emphasise the statistics in this letter reflect the data we hold and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to your authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside our annual review of local government complaints. For the first time, this includes data on authorities' compliance with our recommendations. This collated data further aids the scrutiny of local services and we encourage you to share learning from the report, which highlights key cases we have investigated during the year.

### **New interactive data map**

In recent years we have been taking steps to move away from a simplistic focus on complaint volumes and instead focus on the lessons learned and the wider improvements we can achieve through our recommendations to improve services for the many. Our ambition is outlined in our [corporate strategy 2018-21](#) and commits us to publishing the outcomes of our investigations and the occasions our recommendations result in improvements for local services.

The result of this work is the launch of an interactive map of council performance on our website later this month. [Your Council's Performance](#) shows annual performance data for all councils in England, with links to our published decision statements, public interest reports, annual letters and information about service improvements that have been agreed by each council. It also highlights those instances where your authority offered a suitable remedy to resolve a complaint before the matter came to us, and your authority's compliance with the recommendations we have made to remedy complaints.

The intention of this new tool is to place a focus on your authority's compliance with investigations. It is a useful snapshot of the service improvement recommendations your authority has agreed to. It also highlights the wider outcomes of our investigations to the public, advocacy and advice organisations, and others who have a role in holding local councils to account.

I hope you, and colleagues, find the map a useful addition to the data we publish. We are the first UK public sector ombudsman scheme to provide compliance data in such a way and believe the launch of this innovative work will lead to improved scrutiny of councils as well as providing increased

recognition to the improvements councils have agreed to make following our interventions.

### **Complaint handling training**

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2018-19 we delivered 71 courses, training more than 900 people, including our first 'open courses' in Effective Complaint Handling for local authorities. Due to their popularity we are running six more open courses for local authorities in 2019-20, in York, Manchester, Coventry and London. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

Finally, I am conscious of the resource pressures that many authorities are working within, and which are often the context for the problems that we investigate. In response to that situation we have published a significant piece of research this year looking at some of the common issues we are finding as a result of change and budget constraints. Called, [Under Pressure](#), this report provides a contribution to the debate about how local government can navigate the unprecedented changes affecting the sector. I commend this to you, along with our revised guidance on [Good Administrative Practice](#). I hope that together these are a timely reminder of the value of getting the basics right at a time of great change.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M King', with a stylized flourish at the end.

Michael King  
Local Government and Social Care Ombudsman  
Chair, Commission for Local Administration in England



**Local Authority Report: Sandwell Metropolitan Borough Council**  
**For the Period Ending: 31/03/2019**

For further information on how to interpret our statistics, please visit our [website](#)

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
15	25	6	23	9	12	21	1	3	115

Decisions made

**Detailed Investigations**

Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate (%)	Total
8	4	60	26	7	10	59	115

**Note:** The uphold rate shows how often we found evidence of fault. It is expressed as a percentage of the total number of detailed investigations we completed.

Upheld cases where the authority had provided a satisfactory remedy before the complaint reached the Ombudsman	% of upheld cases
1	10

**Note:** These are the cases in which we decided that, while the authority did get things wrong, it offered a satisfactory way to resolve it before the complaint came to us.

Satisfactory remedy provided by authority  
 Compliance with Ombudsman recommendations

Complaints where compliance with the recommended remedy was recorded during the year*	Complaints where the authority complied with our recommendations ontime	Complaints where the authority complied with our recommendations late	Complaints where the authority has not complied with our recommendations	
3	2	1	0	<b>Number</b>
	100%		-	<b>Compliance rate**</b>

**Notes:**

\* This is the number of complaints where we have recorded a response (or failure to respond) to our recommendation for a remedy during the reporting year. This includes complaints that may have been decided in the preceding year but where the data for compliance falls within the current reporting year.

\*\* The compliance rate is based on the number of complaints where the authority has provided evidence of their compliance with our recommendations to remedy a fault. This includes instances where an authority has accepted and implemented our recommendation but provided late evidence of that.

**APPENDIX 2 – LGO – April 2018 – March 2019**

<b>Payment for LGO</b>	<b>Summary:</b>	<b>Lessons learnt:</b>	<b>Service Area</b>
£333.50	Outcome of the case – Upheld: maladministration and injustice	<ul style="list-style-type: none"> <li>• Review undertaken by SEN Operations Manager. Training session took place 14.12.2018 all SEN staff undertaken refresher training in Equality online.</li> <li>• SEN transport policy amended subject to approval</li> </ul>	Education
£700	Outcome of the case – Upheld: maladministration and injustice	<ul style="list-style-type: none"> <li>• Advised OT and Community OT manager regarding recommendations on OT assessments confirming whether applicants can bid on unadapted properties.</li> <li>• Requirement to ensure OTs advise whether applicants are to be considered for unadapted properties to ensure applicants are advised of outcome of any OT assessment</li> </ul> <p>Compensation along with orders to be complied with. Additional compensation if proved that complaint had missed out on properties which they could have bid for.</p>	Neighbourhoods
£2500	Outcome of the case – Upheld: maladministration and injustice	<ul style="list-style-type: none"> <li>• Meetings with OTs on 11.02.2019 and a further meeting on 11.03.2019.</li> </ul> <p>Meeting with HIA on 05.03.2019 where matters arising from investigation will be discussed</p>	Adults Social Care
<b>Total: £3533.50</b>			

### APPENDIX 3 – HOS – April 2018 – March 2019

Payment	Summary:	Lessons learnt:	Service Area
£1150	<ul style="list-style-type: none"> <li>The maladministration of the decant occurred due to a lack of clarity regarding the process. Since this incident, in response to earlier ombudsman involvement, a specific decant procedure has been implemented and all staff are now aware of the correct process.</li> </ul>	<ul style="list-style-type: none"> <li>Specific decant procedures to be implemented</li> <li>Comprehensive training for staff who are new in post</li> <li>Complaint handling – importance of clarifying if customer is satisfied with response</li> </ul>	<b>Homes and Communities</b>
£50	<ul style="list-style-type: none"> <li>Damages to washing machine and Council's liability</li> </ul>	<ul style="list-style-type: none"> <li>No lessons learnt as the outcome supported previous findings, no requirement for changes</li> </ul>	<b>Homes and Communities/Risk and Insurance</b>
£377.62	<ul style="list-style-type: none"> <li>Payments made as a gesture of goodwill – decorating allowance and two weeks rent</li> </ul>	<ul style="list-style-type: none"> <li>No lessons learnt</li> </ul>	<b>Homes and Communities</b>
<b>Total: £1577.62</b>			

## APPENDIX 4 – LGO APRIL 2017- MARCH 2018

Payment for LGO	Summary:	Lessons learnt:	Service Area
£300	<ul style="list-style-type: none"> <li>The outcome of the case: Upheld – maladministration and injustice.</li> </ul>	<ul style="list-style-type: none"> <li>Where the problem occurred - Delay in council responding to request for support.</li> <li>What lessons were learnt/ did the decision make us change the way we do things-               <ul style="list-style-type: none"> <li>Staff failure to progress requests – finding from complaint were shared with workers so that they understood the impact of their failings. All Staff to be reminded of the need to action requests asap.</li> <li>LGO was satisfied with the outcome of the LA complaint investigation.</li> </ul> </li> </ul>	Adult Social Care
£500.00	<ul style="list-style-type: none"> <li>The outcome: Upheld – maladministration and injustice.</li> </ul>	<ul style="list-style-type: none"> <li>Where the problem occurred - There was a delay in making changes to care and support plan. Further delays in passing updated plan on to the agency commissioned to manage complainant's direct payments causing unnecessary distress.</li> <li>What lessons were learnt/ did the decision make us change the way we do things.               <ol style="list-style-type: none"> <li>a two month delay in allocating a social worker to deal with her case;                   <p>Adult Social Care have introduced an allocation alert into our customer journey procedures and system which clearly identified the number of cases waiting allocation and the timeline these cases have been waiting. A weekly report is then circulated to both local and area managers.</p> </li> <li>a delay in sending Ideal for All a copy of her updated care and support plan; This is a practice issue within Adult Social Care which has been picked up and we have clear timelines and standards already in place in relation to the timeline in which a customer and relevant others should receive copy of plan.</li> </ol> </li> </ul>	Adult Social Care

Payment for LGO	Summary:	Lessons learnt:	Service Area
		<p>(3). Ideal for All said it would contact her but did not do so; and Assurance has been given by Ideal for All they have introduced a weekly case catch up call to relevant customers/family/professionals with all allocated cases.</p> <p>(4). Ideal for All failed to tell the Council it needed an updated care and support plan.-This will be addressed via weekly case catch up</p>	
£400.00	<p>The Complainant stated that the Council has not provided her with the support it should have done. The Council has made a payment of £400 for the distress this caused</p>	<p>The Council has apologised for the lack of support and poor Communication. In addition to the payment of £400, the LGO decided that the Council will offer the Complainant the following:-</p> <ul style="list-style-type: none"> <li>• An assessment which should determine what, if any, further support or therapy is required. An assessment of needs was completed on 16.10.18 and given to the family, they returned the assessment for some amendments which were completed. An Adoption Support Fund application was completed on the 02.03.18. A psychological assessment has recently been completed, which recommended therapeutic life story work and DDP. The request for funding has been booked into resource panel for the 19th September.</li> <li>• An assessment of the Complainant to determine whether they need any further support. A council officer has attended a tribunal meeting and signposted the Complainant to others who can help and support.</li> <li>• An updated SGO support plan if the assessments conclude that further support or therapy is needed. The assessment on need continues to be updated and is not a document with is 'completed' as it is updated as the needs change and support is put place. The Assessment of need is seen as the equivalent of an SGO support plan.</li> </ul>	Children's Services

Payment for LGO	Summary:	Lessons learnt:	Service Area
£250.00	<p>The outcome- Tenants garden was brought back into line with her tenancy conditions in May 2017 and the complainant was made aware of that at the Stage 3 Compliant hearing. Although the Housing officer keeps in touch with our tenant no further breach of tenancy condition has occurred.</p> <p>Service area has been in touch with the complainant regarding the outcome of the Ombudsman enquiry and the monies awarded.</p>	<p>What lessons were learnt – the Ombudsman has noted a delay at the offset of the complaint in August 2014. This is because the officer concerned left the Authority and did not pass this case over as one which was outstanding. The line manager has changed their working practice so that if an officer leaves the team they sit down with the officer and goes through all open case work a few weeks before they leave so that an effective and efficient hand over of work can be formed. This way the new incoming staff will pick up all the open cases so that none are missed, which was the case with the complainant.</p>	Homes and Communities
£2,500.00	<p>Outcome: Having considered Education's response the Ombudsman found in favour of the complainant and instructed Education to apologise and raise a cheque of £2500. Where the problem occurred: Unable to comment where the problem occurred as this happened before all current managers/admin staff were in post.</p>	<p>What lessons were learnt -Unable to foresee or predict such an occurrence as the parent did not inform Sandwell MBC of their move into Sandwell.</p>	Education.
<b>Total: £3,950.00</b>			