

Classification: Open	Decision Type: Non-Key
--------------------------------	----------------------------------

Report to:	Overview & Scrutiny Committee	Date: 26 November 2024
Subject:	Local Government and Social Care Ombudsman Annual Review Letter 2023-24	
Report of	Director of Law & Democratic Services	

Summary

The purpose of this report is to set out findings and recommendations of the Local Government and Social Care Ombudsman for 2023-2024. Additional oversight and accountability for LGO supplied information is provided by the Council's Overview and Scrutiny Committee and Standards Committee.

Recommendation(s)

- (a) That the content of the Ombudsman's Annual Review Letter to the Council be noted by the Overview & Scrutiny Committee; and:-
- (b) That the complaints made to the Local Government Ombudsman referred to the Council during 2023/24 and their outcomes also be noted.

Report Author and Contact Details:

Name: Michael Cunliffe
 Position: Principal Democratic Services Officer
 Department: Legal and Democratic Services
 E-mail: m.cunliffe@bury.gov.uk

1. Background

- 1.1. The Council receives an Annual Report summarising all complaints dealt with by the Local Government and Social Care Ombudsman ("LGO"). This Report provides a brief commentary on the Ombudsman's Annual Review letter which is sent direct to the Council's Chief Executive, Leader and Chair of Overview & Scrutiny (Attached as Appendix 1). A report on this subject matter was also included at the Standards Committee meeting held on the 19th September 2024, which Members duly noted.

2. Ombudsman's Jurisdiction

- 2.1. The Local Government Act 1974 established the then Local Government Ombudsman for England and for Wales. The Act defines the main statutory functions:
 - to investigate complaints against councils and some other authorities
 - to investigate complaints about adult social care providers from people who arrange or fund their own adult social care
 - to provide advice and guidance on good administrative practice

The main activity under Part III of the 1974 Act is the investigation of complaints, which it states is limited to complaints from members of the public alleging they have suffered injustice as a result of maladministration and/or service failure. The LGO jurisdiction under Part III covers all local authorities (excluding town and parish councils). The LGO changed its name to the Local Government and Social Care Ombudsman in 2017 to reflect the full scope of their jurisdiction.

3. Complaints and Enquiries Received by the Ombudsman in 2023/24

The Ombudsman provided, statistics on how complaints upheld against the Council were remedied and those not pursued. This year's information again included a breakdown, showing the complaints and enquiries received and decisions made. Data can be viewed via the following link:- <https://www.lgo.org.uk/your-councils-performance/bury-metropolitan-borough-council/statistics#complaints-upheld>

3.1. The number of complaints and enquiries received for 23/24 as compared to 22/23 had increased slightly. Although this is a similar total in comparison to 19/20 which was pre Covid hit year.

2023-2024-	78
2022/2023-	72
2021/2022-	68
2020/2021 -	38 (Covid hit year)
2019/2020 -	73

3.2. The complaints received by the Ombudsman about the Council in 2023/24 were split across service areas as follows (Note- these are LGO designated service categories. These are compared with last year's figures:

Service Number of Complaints	2023/24	Comparison to previous year	2022/23
Adult Care Services	4	Decrease	10
Corporate & Other Services	7	Increase	4
Education & Children's Services	35	Increase	27
Environmental & Public Protection & Reg	6	Decrease	8
Highways & Transport	9	Increase	8
Planning & Development	3	Increase	1
Housing	6	Decrease	7
Benefits and Tax	7	No change	7
Other	1	Increase	0

3.3 In addition, it is worth noting that these figures may not be reflective of the number of complaints actually made to the Council.

4. Ombudsman Complaint Decisions

4.1. Details of the 23 decisions upheld and the required actions by the Council to remedy these can be viewed via the below link. The decision of "Upheld" is applied when the Ombudsman finds there is some fault in the way the Council acted – even if it has agreed to put things right during the course of the Ombudsman investigation; or had

already accepted it needed to remedy the situation before the complaint was apparent to the Ombudsman.

<https://www.lgo.org.uk/your-councils-performance/bury-metropolitan-borough-council/decisions/2023/u/Listing?t=both&fd=2023-04-01&td=2024-03-31&dc=u&aname=Bury%20Metropolitan%20Borough%20Council&atype=Metropolitan%20council&sortOrder=DESCENDING>

- 4.2. The LGO have advised on comparing statistics across the years and that in 2022-23 they changed their investigation processes. This contributed towards an increase in the average uphold rate across all complaints. Members should consider comparing individual Council uphold rates against the average rate rather than against previous years.

Decision of Ombudsman	2023/24	2022/23	2021/22
Investigated – Upheld	23	22	11
Investigated – Not Upheld	3	3	4

5. Education & Children’s Services

- 5.1. In 2023-24 the LGO upheld 80% of the investigations carried out, up from 74% in 2022-23. The highest area of complaint across the Ombudsman’s casework remains complaints about poor services for children and young people with Special Educational Needs and Disabilities. This area now dominates their casework, making up 26% of all complaints the service received in the period and 42% of all upheld complaints. The LGO found fault in 92% of the education cases investigated and the numbers are increasing rapidly.

6. Annual Review of Local Government Complaints in England for 2023-24

- 6.1 The LGO Annual Review of Local Government Complaints in England for 2023-2024 pulls together the national picture of trends and common issues that have arisen from complaints over the last year. (Attached as Appendix 2).
<https://www.lgo.org.uk/assets/attach/6627/Annual-Review-of-Local-Government-Complaints-2023-24.pdf>
- 6.2 During LGO investigations, it is not uncommon for them to uncover poor complaint handling practices by authorities. The LGO understand the financial challenges councils face, but it is ever more important to get the basics right and invest in complaints systems to capitalise on the learning that can be had from good complaints handling.
- 6.3 More concerningly the LGO Annual Review uncovered for the first time that more than one in five remedies (20.8%) by councils are being implemented later than agreed. This means that people, who have already gone through the process of complaining to their local authority and then to the Ombudsman, are waiting even longer for things to be put right.
- 6.4 27 public interest reports were issued nationally during 2023-24 with two being for Bury Council in relation to school transport and school admissions under the education category. These two reports were addressed at the February 2024 Cabinet meeting as per LGO recommendations and can be viewed:-

<https://www.lgo.org.uk/your-councils-performance/bury-metropolitan-borough-council/publicreports>

- 6.5 The Ombudsman was pleased to note however that to note the Council had now implemented all the agreed actions and has reviewed both policies. It also noted the positive work carried out consulting on the draft policy for school transport, which included engaging with parent groups and other stakeholders.

7 Faults

- 7.1 When recommending a remedy, the LGO seek to remedy the injustice caused as a result of identified fault. The Ombudsman's guidance on remedies states:
- For injustice such as avoidable distress we usually recommend a symbolic payment to acknowledge the impact of the fault as we cannot put the complainant in the position they would have been had the fault not occurred; and
 - Distress can include anxiety, uncertainty, lost opportunity and frustration
- 7.2 The LGO like many organisations have been focussed on doing the most they can with their resources, prioritising cases where it is in the public interest to investigate. As a result, they are less likely to carry out investigations into 'borderline' issues and are therefore finding a higher proportion of fault.
- 7.3 The LGO uphold rate has increased by 6% to 80% this year. The LGO confirms around 60% of all authorities against whom a remedy was required, have a late compliance registered against them.

8 Ombudsman's Annual Review Letter

- 8.1 The Annual Review letter provided an annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about this Council to the year ending 31 March 2024.
- 8.2 The LGO has an interactive map of performance. The map shows annual performance data for all Councils in England, with links to published decision statements, public interest reports, annual letters and information about service improvements that have been agreed by each Council. The intention of this tool is to place a focus on the authority's compliance with the recommendations.
<https://www.lgo.org.uk/your-councils-performance/bury-metropolitan-borough-council/statistics#complaints-upheld>
- 8.3 It is intended that the information provided by the Ombudsman, set alongside the data the Council records about local complaints, will assist in assessing the Council's performance.

9 Other Information & Comparisons

- 9.1 It should also be acknowledged that complaints to the Ombudsman do not always involve the Council or its appeals processes of any wrongdoing; but that they come from people who would have liked something more, or better, or a different outcome. It is unlikely that public expectations of services will diminish in the short term and therefore there is no reason to suppose that complaints will fall significantly. Despite these challenges, Officers are making every effort to ensure that capacity to respond to the Ombudsman is maintained.

- 9.2 It is important that the Council takes even greater measures to ensure that it is able to evidence that it learns from complaints and uses this learning to improve and maintain the quality of the services it commissions and provides.
- 9.3 In comparison to other GM authorities, data patterns for 2023-24 are as follows:-

Authority	Bury	Rochdale	Bolton	Oldham
Complaints Upheld	23	5	9	12
Implemented recommendations	92% This compares to an average of 99% in similar authorities.	100%	100%	100%
Satisfactory remedy	9% This compares to an average of 14% in similar authorities.	0%	22%	42%

10 Future Developments and Improvements

- 10.1 In response to the public interest reports issued, Officers looked into the LGO process and the largest number of complaints were in Children's Services, sometimes involving the same complainant with multiple complaints. To help Officers maintain an accurate record and meet the required deadlines, a weekly matrix was produced by the Council's LGO link Officer. This was sent to relevant Officers and Directors to make them aware of live cases with deadlines for actions required and evidence to be produced for the LGO.
- 10.2 The LGO met with the Council in January 2024 to discuss concerns on complaint handling and communication. Further meetings have occurred throughout 2024 with no issues against the Council raised. Internal measures were introduced to hold regular meetings between the LGO Link Officer and Monitoring Officer to review and manage live cases. As detailed on page 2 of the LGO's annual report detailing the Council's performance, the LGO have welcomed significant strides the Council has now made to improve its complaint functions.
- 10.3 The Monitoring Officer now leads a centralised policy & complaints team that oversees all casework and compliance. Feedback from the LGO confirms that there are clear signs of improvement in the Council's performance. In the final months of the reporting year 23-24, no reports were received about delayed or incomplete responses to LGO enquiries, and compliance with recommendations is now being achieved in 100% of cases.
- 10.4 Additional staff training has been provided to Officers by attending LGO run training courses. The LGO and Council will continue to meet over the coming months to continue monitoring performance and it's expected that the data and report for 2024-2025 will demonstrate the improvements made.

- 10.5 The Monitoring Officer would continue to focus on improvements relating to compliance, and that proposals relating to the adoption of the Complaints Handling Code would be presented to Members before 2026.
- 10.6 Following the establishment of the Policy Compliance Team, enhanced reporting procedures have been implemented to ensure comprehensive oversight and accountability. The team will provide monthly updates to the Senior Leadership Group (SLG), offering timely insights into compliance progress and addressing emerging issues.

These reports will also be presented quarterly to SLG and relevant committees including, Corporate Governance and Audit, to ensure cross-departmental transparency and thorough examination of key compliance metrics.

An annual summary will be submitted to Cabinet, and if requested relevant scrutiny committees, providing a strategic overview of compliance achievements, challenges, and recommendations for ongoing improvements. These measures aim to strengthen governance, support informed decision-making, and promote continuous adherence to organisational policies.