

9 March 2022

Clive Betts MP
Chair of the Levelling up, Housing, and Communities
Select Committee
House of Commons
London
SW1A 0AA

Dear Clive,

Thank you for the opportunity to appear before the committee and for your letter of the 2 February. I am very happy to answer the additional questions provided by the committee and to continue to provide the committee with further progress updates.

I have addressed each question in turn as below.

Joint Complaint Handling Code with the Housing Ombudsman

A key element of our business plan for 2022/23 is to create a new joint complaints code with the Housing Ombudsman. The final content of that code is still being actively developed. However, I can provide a brief outline of our current thinking.

Our intention is to base the content of the code on the second version of the Housing Ombudsman's existing Complaints Code, which will be published in April. In broad terms it will set out our joint expectations around complaint handling, including consideration of the following:

- What is and isn't a complaint
- Accessibility and visibility of a complaints process
- Principles of good complaint handling
- The stages of a complaints process
- Timescales for response
- How to put things right
- Learning and improvement
- Reporting of complaints performance

As highlighted in your letter, it is notable in this context that the Housing Ombudsman has the power to impose 'complaint failure orders', and LGSCO currently does not. Ideally this difference would be addressed through a change in our legislation. However, we recognise that to make progress we will need to develop the new Code, at least initially, within our existing powers. Having considered the tools currently available to us, we are optimistic that our existing arrangements can be adapted pragmatically to ensure compliance.

In practice this means that a failure to follow the code will be addressed through our current channels such as individual casework decisions, public interest reports, our online performance data for each authority, and the annual report letter on complaint performance sent to each local authority Chief Executive and Leader. The approach we take will depend on the seriousness of the failure to comply and incidence of fault found in the past.

The joint code will hopefully also allow us to identify wider cultural failures in attitudes to complaints within local authorities. This will feed into the data we share with the Department for Levelling Up, Housing and Communities and other appropriate bodies.

Clearly the credibility and value of the Joint Code will depend on the level of compliance that is achieved in practice. Whilst we are wholly committed at this stage to achieving that under existing legislation and through the consent and cooperation of local authorities, it will be important to monitor the success of that approach in the early years of the new Code. Should the necessary improvements not be achieved, the adoption of a mandatory, statutory complaints standards scheme, as has been used successfully elsewhere in the UK, should remain an option for consideration.

Mandatory signposting of adult care users to the Ombudsman

We remain concerned that many users of adult social care are unaware of their right to bring a complaint for independent investigation by LGSCO and believe that mandatory signposting might be a simple and low-cost way in which to address that problem.

We are currently working with the Department of Health and Social Care on the practical details of how this proposal might be best implemented. There are a number of different approaches that could be taken. At its simplest level this could include physical signs or leaflets in residential care settings, as well as information for users and relatives on key documents and online information sources. There is also the option to link this duty to a care provider's registration with the Care Quality Commission with, for example, the need to show at inspection that the body is signposting to the LGSCO within their statutory complaints process. Currently, although all providers must have a statutory complaints process, the details of this process are not specified by the CQC, including whether or not they are signposting to the Ombudsman.

When councils commission adult care services, we strongly encourage them all to ensure the services they commission have in place a proper complaints system which includes signposting to the Ombudsman. We have seen some examples of excellent practice in this regard, where councils have put in place seamless complaints systems and support care providers to learn from user feedback. However, we also still see some authorities where the responsibility for complaints in commissioned care services remains unclear or confused.

Where care is provided within an individual's home, we would like to see a clear reference to our role included in the complaints procedure of the service or company providing care. This should be provided to all homecare clients as part of their contract and/or terms and conditions. For example, often there will be a folder or hard copy record in the client's home which is used to record every visit, and which also holds a copy of the contract/terms and conditions, complaints procedure, policies, and care plan.

Funding Triennial Review proposals

Any extension to the role of LGSCO, or increase in complaint volumes, arising from the Triennial Review will need to be fully funded, as our existing resources provide no spare capacity to absorb additional work.

As we are still at the scoping phase for many of these proposals, we are not currently able to provide detailed estimates for costs. However, we are keen to work with the relevant government departments to ensure any impacts to our work are properly costed and funded.

As an organisation, we do still have a major risk in relation to funding which I feel I have a responsibility to highlight here. As you are aware, since our budget was cut by 41% in recent years, we have been the lowest-funded Ombudsman service in the UK. Like other Ombudsman schemes, LGSCO has been significantly impacted by Covid, meaning that any further real-terms cut to our budget would genuinely mean we are unable to properly fulfil our statutory function of independently investigating complaints made by the public. We have yet to receive confirmation of our budget for next year but have been told to prepare for the sort of reductions that would compromise our ability to undertake our core work.

Managing COVID-19 impact on casework timescales

The LGSCO has adopted a Sustainable Casework Plan with the target of reducing unallocated casework at both Assessment (the first stage of investigation) and Investigation (the more detailed stage of our investigative work), and thereafter maintaining them at sustainable levels. I am cautiously optimistic that this plan is working, as we are seeing sustained and significant reductions in queues.

Our target is to reduce and maintain unallocated case levels at 400 and 250 respectively for each of the stages of our investigative process. These are levels which would enable us to provide a good standard of service to the public, whilst also realistically reflecting the normal flow of new cases into and through our systems.

Looking at recent performance, we expected to receive 3,750 complaints in the four-month period from October 2021 to January 2022. 3,741 (99.78%) were received. During this time, we made 4,039 decisions.

During the summer last year, the number of unallocated cases in Assessment had risen to 1,400, meaning complainants were having to wait, on average, 6½ weeks for their Assessment decision. The unallocated figure at the end of January 2022 was 826, meaning complainants are now waiting an average of 5 weeks with 49.4% of people hearing from us within 20 working days. Therefore, we have made substantial progress since the introduction of the Sustainable Casework Plan.

In the Investigation stage, at the end of January the unallocated figure stood at 480. This is a reduction from the 700 unallocated cases we had in the summer of 2021, and it has shown a steady reduction over the course of the Sustainable Casework Plan.

During this time, we have also been keeping a very close watch on the quality of our casework, which remains very high, and the number of older (and usually more complex) cases we hold. Only 41 of our current cases are older than 52 weeks from receipt and each of these has a clear plan for completion. This figure remains comfortably within our target for older cases.

Homelessness Reduction Act

In July 2020 we issued our focus report, *Home Truths: how well are councils implementing the Homelessness Reduction Act*. This was based on evidence from the first 50 detailed investigations we undertook in this area. Given the significance of this type of complaint in our work and the considerable public interest in this topic, our intention was always to continue to monitor these cases in future and consider the merits of a further thematic report.

We currently plan to actively track all homelessness cases over the next twelve months and envisage publishing a follow-up report on local authority effectiveness in implementing the Homelessness Reduction Act by in Spring 2023.

Thank you again for the opportunity to address the committee and for your continued interest in our work. If you have any further questions or comments about the Triennial Review, or any of the above, I am happy to help.

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 for England
Chair, Commission for Local Administration in England