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**Title of meeting:** Governance and Audit and Standards Committee

**Subject:** Additional information in relation to complaints upheld by the Local Government and Social Care Ombudsman in 2018/19

**Date of meeting:** 3 March 2020

**Report by:** Assistant director of Corporate Services

**Wards affected:** All

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### **1. Requested by**

Governance & Standards & Audit Committee.

### **2. Purpose**

The purpose of this report is to bring further details regarding complaints upheld by the Local Government and Social Care Ombudsman (LGSCO) in 2018/19 to the attention of the Committee.

### **3. Background**

The annual review of corporate complaints, including a review of LGSCO complaints, was considered by the Committee in September 2019.

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The Committee requested additional details be provided, specifically around those complaints upheld by the LGSCO ombudsman in 2018/19.

Corporate complaints are managed by the City Helpdesk customer service team.

Complaints about children's and adult social care are managed differently to complaints about other departments. There are statutory complaint processes in place for both adults' and children's social care, overseen by a complaints manager for social care.

In 2018/19, 45 complaints were referred to the LGSCO about Portsmouth City Council, of which eight were upheld. Four of the upheld complaints related to Children Families and Education (CFE), two to Adult Social Care (ASC), one to Housing, Neighbourhood and Building Services (HNBS), and one to Regeneration.

The original report, based on data from the LGSCO's annual review documents, reported three upheld complaints for ASC. This is because a complaint about a blue badge assessment process, carried out by occupational therapists from adult social care but processed by the parking service, had been incorrectly assigned to ASC rather than to Regeneration. This has now been corrected.

#### **4. Children, Families and Education (CFE) complaints**

Two complaints were upheld in relation to Children's Social Care (CSC), however details of a third complaint has been included for the committee's information because fault was identified by the ombudsman, and there was significant learning.

Two complaints were upheld in relation to Education.

Two complaints related to the CSC children with disabilities team. This team no longer exists, as its functions have been incorporated into the multi-disciplinary locality teams. The third complaint related to the CSC central locality team. The fourth and fifth complaints related to special educational needs.

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#### **4.1. CSC complaint one:**

This complaint related to the children with disabilities team, and inappropriate involvement with a family by a member of staff from a contracted service.

The LGSCO found there was fault in the council's adherence to its safeguarding procedures and, as a result, we may have missed opportunities to protect a vulnerable family from a person working in one of our contracted services. This caused the family a significant injustice.

The council has already undertaken robust service improvements in response to this incident, to help reduce the risk of similar incidents in the future. These changes have included moving the Local Authority Designated Officer (LADO) role, so that it is now an integral part of Children's Services and not Human Resources, as it had been previously.

The council has also appointed a Safeguarding Allegations Management Advisor (SAMA) within its Adult Social Care department. The role of the SAMA is similar to that of the LADO, in co-ordinating investigations into safeguarding matters and ensuring that they are handled appropriately. The council has strengthened the SAMA process to ensure that it is effective as a result of this complaint.

The council has also improved its recruitment practices. This includes a more robust handling of references, and the requirement for staff to attend an improved safer recruitment training course before being permitted to sit on a recruitment board. Going forward, it plans to review its HR policies, to ensure clarity and robustness in dealing with disciplinary matters in future.

The council is also producing guidance for staff to ensure they understand that it is possible for families to be exploited, and how to manage concerns they might have about other staff being too close to families with whom they have been appointed to work.

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The council is also in the process of introducing improved IT systems, to allow it to more rigorously restrict access to information only to those who need it. This has been completed for Adult Social Care (System One) and Mosaic will shortly be introduced for Children's Social Care.

**4.2. CSC complaint two:**

This complaint related to the children with disabilities team, and looked after children reviews. Mr X and Ms Y complained they were not sent looked after children reviews. They also said the council had unreasonably restricted their ability to communicate with the council, and that we had failed to deal with their complaints satisfactorily.

The LGSCO found fault because we cannot be sure we sent the reviews.

The LGSCO is satisfied the council took steps to remedy this by sending these out the reviews again. The LGSCO did not find any other fault with our actions.

**4.3. CSC complaint three:**

This complaint related to the central locality team and was about safeguarding.

Mr A said the council mishandled a safeguarding procedure, which meant that he had unnecessarily restricted contact with his children. Mr A said he had been misled about documents. One document included a crucial typing error that changed part of the meaning. The error had been corrected by hand, but updated copies of the documents were not provided. Part of the assessment for one of his children had also not been completed correctly. Mr A said social workers treated him poorly and excluded him from the process which, among other things, led to him missing a 'child in need' meeting. It then took several months of chasing to obtain a copy of the minutes, which then contained factual inaccuracies.

Although this complaint was not upheld, the LGSCO found two points of fault with the council, that the safety plan had been amended without gaining new signatures, and that

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there was no evidence a social worker attempted to confirm directly with Mr A that he knew about the 'child in need' meeting. While the LGSCO did not consider either of these faults caused an injustice, they did find the council should take steps to prevent a recurrence and so the learning has been included.

As a result of this complaint, we have ensured relevant staff are aware that, if amendments are made to an agreement after it has been signed, they should either ensure the signatories also sign the amendment, or they should produce a new copy of the agreement and have it signed afresh. The department has also advised relevant staff they should only rely on a family member to pass on messages when reasonable efforts at direct communication with a person have failed, and they should ensure they make a formal record of the failed communications, in case there are subsequent disputes.

**4.4. CFE complaint four:**

This complaint related to a child with special educational needs.

Mrs K complained about the way the council had responded to her complaints regarding an Education, Health and Care Plan for her daughter.

The LGSCO found fault in that the council because there had been avoidable delays in terms of the council's response to the complaints made by Mrs K. The LGSCO also found that the council should not have made a distinction between formal and informal complaints. The LGSCO recommended a financial remedy to make up for the time and trouble that this caused in chasing up the progress of her complaints.

In addition to providing financial redress, the education service has updated its complaints guidance for staff to ensure all complaints follow a formal process and that they are responded to within the required timescales.

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#### **4.5. CFE complaint five:**

This complaint relates to a child with special educational needs.

Mr X complained the council had failed to comply with the legal requirements when it produced an Education, Health and Care Plan (EHCP) for his daughter.

The LGSCO found fault in that the council had not considered the EHCP within statutory timeframes.

While it is rare for the council not consider the EHCP within the statutory timescales, (99.5% of assessments are within statutory timescales compared to a national average of 60%), this particular case dates back to 2014 and was just prior to the implementation of the SEND reforms. There was a confusion between the parent and the SEN Team about whether they were going to be part of the new EHCP pilot or have a statement of education under the previous arrangements.

The education service has, as a result, improved the communications between the SEN Team and parents to ensure such confusion does not occur again

## **5. Adult Social Care**

There were two upheld complaints about adult social care.

The first complaint relates to the safeguarding team. The second complaint relates to direct payments.

### **5.1. ASC complaint one:**

This complaint related to safeguarding. Mr X complained about the way the council responded to a safeguarding concern raised about his son, Mr Y. It referred the case to the adult mental health team (an integrated service, managed by the NHS but with mental

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health social workers employed by the council) to carry out an assessment but then failed to ensure the recommendations were implemented. This had consequences for Mr Y in relation to his housing.

The LGSCO found there was fault by the council, causing injustice to Mr X and Mr Y. This was because the council failed to meet an identified eligible need within a reasonable period of time, or contribute to a major decision about Mr Y's accommodation, which had consequences for Mr Y. Mr X had to invest significant time and trouble in pursuing the complaint, and obtaining services for his son.

As a result, we agreed to financially compensate both Mr X and Mr Y.

As a result of this complaint, staff were reminded to ensure that where cases are referred to other organisations for action, that the council retains oversight and has a procedure to monitor the outcome. As with CSC complaint three (above), relevant staff were advised they should only rely on a family member to pass messages when reasonable efforts at direct communication with a person have failed. They should also ensure that they make a formal record of any failed communications, in case of subsequent dispute.

## **5.2. ASC complaint two:**

This complaint relates to direct payments. Mrs B complained the Council did not provide adequate support to her disabled husband so he could access the community and pursue a leisure activity. She said the council was not flexible enough in its approval of direct payments.

The LGSCO found fault in the way the council refused to pay for the equipment to enable Mr B to participate in a leisure activity, and in the lack of clarity in our documents. The LGSCO recommended the council pay for the necessary equipment and provided more detail in documents.

The council has apologised to Mrs B and repaid the costs of equipment bought from personal income. We agreed to carry out an assessment and provide a care plan and

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personal budget, setting out clearly in the care plan what services meet eligible needs and the basis for our decisions. We also agreed to provide a personal budget that explains how the services will be paid for, and we agreed to pay for an occupational therapy assessment, and for further equipment as needed to enable Mr B to take part in the leisure activity. We have also agreed to provide an assessment, care plan and personal budget to meet Mrs B's needs as a carer, and have financially compensated Mrs B with a payment of £150 for the distress caused by the lack of clarity, and the delay in providing the necessary equipment.

As a result of this complaint, the council has clarified the circumstances in which direct payments can be used for leisure activities. All staff have been sent a communication to ensure they have clear support plans that detail how service users can spend their personal budgets. Staff have also been informed of, and received training in, adopting a strength-based approach to assessments and care planning. Service user's personal budgets should now more clearly state how Adult Social Care are going to meet people's social care needs.

## **6. Housing**

This complaint relates to a right to buy application processed by the council's leasehold team. Mr X complained that the council's failure to respond to an email about maintenance and service charges had resulted in him missing a deadline in the right to buy process, causing him an injustice.

The LGSCO found the council had failed to respond to an important email, and recommended the council apologise for the uncertainty this caused. No recommendations were made around financial redress or service improvements.

As a result of the complaint, the Assistant Director for Housing reviewed the relevant processes, and sought reflections from the customer team in the leasehold department. In this case, the complainant had corresponded with the council using more than one email address, and had sent queries on the matter to more than one contact within the organisation. This case highlighted potential for customers to communicate with the



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council in this way. As a result, staff have been made aware of this issue and are now additionally vigilant in checking possible sources to ensure all queries are answered.

## **7. Regeneration complaint one:**

This complaint related to parking and a blue badge application.

Mrs Z complained the council had been unfair in its assessment of her mobility and had failed to consider the fluctuating nature of her condition.

The LGSCO did not find fault with the way the council had assessed Mrs Z's eligibility for a blue badge. They did find fault in the council's subsequent failure to fully explain its reasons in its decision letter, but concluded there had not been any injustice as a result and so did not recommend any remedies.

As a result of this complaint, the service now ensures more detailed reasons for decisions are included in decision letters.

This complaint was originally incorrectly recorded as an Adult Social Care upheld complaint by the LGSCO in their annual report letter.

## **8. Conclusion**

A review of upheld complaints demonstrates the council learns from its mistakes, reviewing situations that led to complaints and amending processes and training to ensure issues are not repeated.

The number of complaints referred to and upheld by the LGO has remained relatively static, and PCC continues to compare well with other local authorities.

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**Portsmouth**  
**CITY COUNCIL**

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Signed by (Director)

**Appendices: Nil**

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report: