

## SCRUTINY COMMISSION 4 October 2022

<b>Report Title</b>	<b>Local Government and Social Care Ombudsman Annual Report 2021-22</b>
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<b>Lead Member</b>	<b>Councillor Jason Smithers Leader of the Council</b>

### 1. Purpose of Report

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- 1.1 To present the Local Government and Social Care Ombudsman (LGSCO) Annual Letter to the Council for 2021-22 to the Scrutiny Commission and allow it to consider areas it may wish to focus its activities on resulting from types of cases that the LGSCO has investigated in the last year.

### 2. Executive Summary

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- 2.1 The LGSCO is the final stage for complaints about councils and social care after the Council's own complaints procedure has been exhausted. Each year the LGSCO issues an annual letter to councils individually that covers complaints that have been received relating to that Council and their outcome.
- 2.2 This report shows the LGSCO's findings in respect of the North Northamptonshire Council (NNC) for the year 2021-22. As many of the LGSCO's investigations take much time, this report also includes cases emanating from sovereign authorities.
- 2.3 The LGSCO received 55 complaints in respect of NNC in 2021-22, compared to 91 in respect of the sovereign authorities the previous year.
- 2.4 Overall, the following numbers of complaints received by the LGSCO had were broken down by service area as below:-

<b>Service area</b>	<b>Number</b>
Adult Care Services	6
Benefits & Tax	8
Education & Childrens Services	16
Environmental Services & Public Protection & Regulation	5
Highways & Transport	3
Housing	8
Planning & Development	9
<b>Total</b>	<b>55</b>

### **3. Recommendations**

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3.1 It is recommended that:

- a) The Scrutiny Commission notes the content and recommendations of the LGSCO's annual review letter, and the outcomes of its investigations completed in 2021-22 that relate to the Council and provides feedback.

3.2 Reason for Recommendation: To appraise the Commission of the annual review letter and relevant information.

3.3 Alternative Options Considered: There are no appropriate alternatives.

### **4. Report Background**

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4.1 This report discusses the LGSCO's annual report into cases relating to NNC that it investigated in 2021-22.

4.2 In 2021-22, the LGSCO investigated cases that relate to NNC in its own right as well as concluded investigations into complaints that were made in previous years that related to the four former Borough and District Councils as well as Northamptonshire County Council.

4.3 Section 5 of this report examines the cases determined by the LGSCO in more detail.

### **5. Issues and Choices**

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5.1 In reviewing complaints for last year nationally, the LGSCO made several observations about the national picture:

- The LGSCO has directed more improvements to be made by councils.
- It is important to focus on making wide-ranging service improvement recommendations that go beyond the specific cases in question.
- 99.7% of all recommendations made were complied with by councils.

5.2 Mike King, the LGSCO said that

*“One complaint can have immense power to change things for the better, and we’re increasingly focusing on to how we, and the local authorities we investigate, take the learning from those complaints, and improve service provision.*

*The vast majority of councils agree to the recommendations we make and see them as common-sense ways of providing better services for people in their area. However this can only happen when councils act swiftly when they have committed to do so.*

*Unfortunately, we are seeing some councils taking longer to make those changes, which put them at risk of making the same mistakes again. In 18% of cases we found compliance was late.*

*While I welcome the professional way in which the majority of councils continue to work with us, I would urge those authorities who are having problems to pay close attention to this final, but crucial, step in the complaints process.”*

- 5.3 The LGSCO noted that, both for NNC and West Northamptonshire Council there were some delays in responding to enquiries made by them to the councils. In many cases, this was a result of confusion between responsibilities when the new unitary authorities were established in Northamptonshire.
- 5.4 In light of this, officers are taking steps to ensure that enquiries are responded to in a timelier manner from now onwards by closer working between those officers coordinating the response to the LGSCO and those tasked with gathering the relevant information.
- 5.5 The table below shows comparative data for the number of cases investigated by the LGSCO in 2021-22 in respect both NNC and any outstanding cases that relate to the sovereign authorities in North Northamptonshire and their outcomes:-

	North Northamptonshire Council	Northamptonshire County Council	Corby Borough Council	East Northamptonshire District Council	Kettering Borough Council	Wellingborough Borough Council
2021-22						
Complaints received by LGSCO	55					
Cases investigated by LGSCO	3	7	3	0	1	2
Above cases of which upheld	2	7	2	0	1	1
Above cases of which upheld	67%	100%	67%	N/a	100%	50%
Average of cases upheld for similar authorities	64%	71%	51%	N/a	51%	51%
Comparison for 2020-21						
Complaints received by LGSCO	N/a	61*	6	6	11	7
Cases investigated by LGSCO	N/a	23*	1	3	1	1
Above cases of which upheld	N/a	15*	1	0	1	0
Above cases of which upheld	N/a	65%	100%	0%	100%	0%
Average of cases upheld for similar authorities		71%	53%	53%	53%	53%

\*This is for the whole of the Council; it is not possible to split between current North and West Northants Councils

5.6 The following tables summarise the cases upheld by the LGSCO in respect of the individual sovereign councils in North Northamptonshire:-

<b>Cases for North Northamptonshire Council</b>		
LGSCO ref	Summary	Outcome
21 008 400	<u>Benefits and Tax – Covid19</u> There was no fault in how the Council considered the complainant's application for a discretionary COVID-19 business restart grant. The Council was at fault because it did not explore the complainant's requests for reasonable adjustments, but this did not cause him an injustice. It is not the Council's fault that the various COVID-19 support schemes can be difficult to understand, and it has taken appropriate steps to mitigate this. We have therefore completed our investigation.	The investigation was completed with a finding of fault which did not cause injustice.
21 006 915	<u>Benefits and Tax – Covid19</u> Mrs X complained the Council did not properly manage the rates account for her business, Company E, and handled her complaints poorly, causing distress, time, and trouble. We found the Council at fault in how it decided on rates' liability and how it handled Mrs X's complaints. We recommended it provide Mrs X with an apology, payments for time, trouble and distress and act to prevent recurrence.	The Council: Provided Mrs X with a written apology, paid Mrs X £150 for time and trouble and £150 for distress and uncertainty. Reminded staff of the need to gather and take account of relevant information before reaching decisions on business rates liability. Provided relevant staff with training on effective complaint handling. The Council has accepted all recommendations.

<b>Cases for Corby Borough Council</b>		
LGSCO ref	Summary	Outcome
20 013 903	<u>Benefits and Tax – Covid19</u> Mrs X complained the Council wrongly refused her a business grant, withdrew a business rates credit in error and handled her complaints poorly. She said she suffered financial loss, distress, time, and trouble. We found the	To remedy the injustice set out above the Council carried out the following actions: Provided Mrs X with a written apology. Paid Mrs X £150 for time and trouble and £150 for distress/

	<p>Council at fault. We recommended the Council provide Mrs X with an apology, £150 for time and trouble, £150 for distress, £10,000 for the missed grant and act to prevent recurrence.</p>	<p>Pay Company B £10,000 for the missed grant. Reminded staff of the need to offer service users a right of review to its decisions. Provide relevant staff with training on effective complaint handling. The Council accepted all recommendations.</p>
20 001 807	<p><u>Benefits and Tax - Council Tax</u> Ms X complained the Council applied Council Tax to an annex on her house despite the annex being exempt. Ms X complained the Council sent the Council Tax charges to debt collection agencies causing additional debt collection charges. The Council has admitted fault for charging Council Tax and has refunded Ms X the overpayments she made. The Ombudsman found the Council was at fault for charging council tax despite having the relevant information to know the property was exempt and the subsequent debt collection activity. The Council agreed to the Ombudsman recommendations to refunds any debt collection charges and provide Ms X with an apology and £900 for the avoidable distress, frustration, and financial hardship it caused.</p>	<p>The Council: Transferred the remaining £177.80 of Ms X's payments to the annex council tax account onto the council tax account for Ms X's main residence. Refunded debt collection charges applied to Ms X's main residence account applied from 1 April 2016 to 8 May 2019, if applicable. Apologised and paid Ms X a goodwill gesture of £900 for the severe and prolonged distress, frustration, and financial hardship it caused by charging council tax on an exempt property for three years and the relating debt collection activity.</p>

#### **Cases for East Northamptonshire District Council**

There were no cases investigated during 2021-22.

#### **Cases for Kettering Borough Council**

LGSCO ref	Summary	Outcome
20 011 625	<p><u>Benefits and Tax - Council Tax</u> Mr X complained about how the Council dealt with the council tax on a property he jointly owned with his mother. He said the Council incorrectly informed him that the property was exempt from council tax. The Council was at fault because it did not properly check who owned the property. It also failed to communicate effectively</p>	<p>The Council apologised to Mr X and paid him £100 to acknowledge the time, trouble, and frustration this matter caused him.</p>

	with Mr X. This caused Mr X frustration. The Council has already made procedural changes to prevent recurrence of the fault. It will also apologise to Mr X and pay him £100 for the time and trouble the matter caused him.	
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<b>Cases for Northamptonshire County Council</b> (only cases relating to North Northamptonshire Council are shown)		
LGSCO ref	Summary	Outcome
20 010 011	<u>Adult care services - charging</u> Mr B complained that the Council overcharged his late mother for her domiciliary and residential care. The Ombudsman considered that there were errors in the financial assessment for Mr B's mother's residential care and, as a result, she should have been charged more for her care. The Ombudsman considered the Council agreeing to write off the additional charges is a suitable remedy.	The Ombudsman considered the Council's agreement to write off the additional charges to be a suitable remedy for the errors in calculating Mrs C's financial contributions to her care.
20 010 941	<u>Adult care services – assessment and care plan</u> Mrs X and Miss P complained about the delay in making arrangements to assess and provide support to Mrs X. It was found the Council was at fault. To remedy the injustice caused, the Council has agreed to apologise, make a payment to Miss P in recognition of the financial losses she incurred whilst providing care for Mrs X and review its practices.	The Council took the following action: Sent a written apology to Miss P and made a payment of £7919. Reviewed procedures to ensure the delays experienced by Miss P in carrying out assessments do not recur. The Council explained to the Ombudsman the action taken to improve its practice in this area.
20 001 023	<u>Education – school transport</u> Mrs B complained that the Council did not properly consider her application for school transport for her son D, who has Special Educational Needs. The Ombudsman found fault in the way the Council considered D's application. The Council already exercised discretion to provide transport from the start of the calendar year. It also agreed to the Ombudsman's recommendation that it reimburse Mrs B's transport costs for D from the start of the	The Council agreed to the Ombudsman's recommendations that: It reimbursed the costs that Mrs B incurred in getting D to school in the autumn term. Reviewed its policy to ensure that it refers to the correct test when considering its statutory duty to provide transport in the case of children with SEN; and reminded officers and panel members of the correct test.

**Cases for Northamptonshire County Council**

(only cases relating to North Northamptonshire Council are shown)

LGSCO ref	Summary	Outcome
	school year, amend its policy and remind officers of the correct test for deciding whether to provide transport.	
20 004 256	<u>Adult care services – charging</u> Mr B complained that the Council provided an inaccurate redemption statement for his mother's Deferred Payment Agreement for care home charges and delayed in issuing an invoice for an overpayment of Direct Payments for home care. The Ombudsman considered that some of the information provided was unclear and there was delay in issuing the Direct Payment invoice. The Council's offer to write off the debt apart from the outstanding care home fees of £2,804.12 was a suitable remedy for any injustice caused to the family.	The Council agreed not to recover the Direct Payment overpayment of £2,891.97 but only the outstanding care home fees of £2,804.12. It issued updated invoices to confirm this. It also agreed to review the wording on its DPA redemption letters to make it clear that there may be separate invoices for interim charges, interest or fees which may not be included in the stated redemption figure.
20 003 586	<u>Adult care services – charging</u> Mrs E complained about the Council's demand that she pay £40,805.15 for her late husband's care home charges, and about the lack of advice provided to her. The Ombudsman considered the Council was wrong to seek to recover this sum, did not advise her properly about her husband's Personal Expenses Allowance or carry out annual reviews of her husband's care. The Council agreed to cancel the £40,805.15 care home charge, apologise to her, pay her £1,120 in recognition of the distress caused and costs unnecessarily incurred, and review its procedures.	In addition to cancelling the £40,805.15 care home charge, the Council also agreed to: Apologise to Mrs E for failing to consider the repayment properly with regard to the Care Act Guidance, the failure to carry out annual reviews of Mr E's care and to provide the appropriate support and advice. Pay Mrs E £300 for the distress she unnecessarily experienced at the prospect of having to sell her home following the recent loss of her husband. Pay Mrs E £320 (£20 x 16 months) towards the cost of petrol and parking. Pay Mrs E £500 in acknowledgment of the of the distress and hardship she experienced as a result of her unnecessarily incurring the full cost of providing for her late husband's incontinence care. Confirm that it has arrangements in place such that annual reviews are undertaken

**Cases for Northamptonshire County Council**

(only cases relating to North Northamptonshire Council are shown)

LGSCO ref	Summary	Outcome
		<p>both within and outside the Council's area.</p> <p>Ensure that officers are familiar with the relevant sections of the Care Act Guidance and the Charging Regulations in respect of deprivation of assets and how this should be considered.</p> <p>Ensure that officers are also familiar with the need to consider whether adjustment to the PEA may be appropriate when undertaking assessments of care charges and that they are reminded to provide appropriate advice on this.</p>
20 011 094	<p><u>Adult care services – charging</u></p> <p>The Ombudsman found fault with the Council for not adequately explaining an assessed contribution towards the costs of a care home placement and for giving wrong calculations of the outstanding amount. This caused the complainant significant distress and confusion. The Ombudsman also found fault with the Council for poor complaint handling. The Council agreed to set up a payment plan for the amount agreed in its final decision and pay a financial remedy to the complainant in recognition of the distress caused.</p>	<p>The Council agreed to:</p> <p>Write to Ms B and Mrs A and apologise for how it has handled the issue of payment amounts and complaint handling.</p> <p>Pay £200 to Ms B in recognition of the distress it has caused her.</p> <p>Discuss and set up a payment plan with Ms B for the amount agreed in the decision dated June 2020 for £19,013.77.</p> <p>Review how it communicates about assessed contributions for care costs, ensuring decisions are communicated in writing.</p> <p>Review how it quality checks calculations for care costs, and how this is communicated to service users, including how decisions are communicated in writing rather than via telephone, and how records are maintained in this area.</p> <p>Review how it responds to complaints about care fees, and how it quality checks information being given to complainants about amounts outstanding.</p>
20 005 888	<p><u>Adult care services – assessment and care plan</u></p> <p>Mrs D complained the Council delayed providing her with a copy of her late husband's care and support plan and that the Council</p>	<p>To address the injustice caused by fault the Council agreed to:</p> <p>Make a further apology to Mrs D.</p> <p>Pay her £200 for the upset and frustration caused.</p>



<b>Cases for Northamptonshire County Council</b> (only cases relating to North Northamptonshire Council are shown)		
LGSCO ref	Summary	Outcome
	failed to provide her with adequate information on direct payments, unreasonably sought repayment of the remaining direct payments funds and failed to facilitate care to enable her late husband to be discharged from hospital. We find the Council delayed providing Mrs D with a copy of her late husband's care and support plan. The Council has agreed to our recommendations to address the injustice caused by fault.	Issue written reminders to relevant staff to ensure they are aware they should provide care and support plans to customers and their relatives without unnecessary delay.

<b>Cases for Wellingborough Borough Council</b>		
LGSCO ref	Summary	Outcome
20 011 300	<u>Adult care services – disabled facilities grants</u> Mrs B says the Council delayed considering her application for a disabled facilities grant, failed to communicate properly with her about the application, ignored recommendations from the occupational therapist, suggested an alternative which would create secondary hazards and offered a cash alternative without providing details. The Council delayed telling Mrs B about its decision in relation to part of the grant application. There is no fault by the Council in the other issues raised. An apology and reminder to officers is satisfactory remedy for the area where the Council was at fault.	The Council agreed to: Send a memo to officers dealing with disabled facilities grant applications to remind them of the need to issue a formal decision on the application, particularly where only some of the works have been approved.

## **6. Implications (including financial implications)**

### **6.1 Resources, Financial and Transformation**

- 6.1.1 Although there are no direct implications from this report, it should be noted that where LGSCO upholds complaints this can cause the authority Officer time, resource, and financial costs to resolve as well as there being damage to the authority's reputation.

## 6.2 **Legal and Governance**

6.2.1 There are no legal implications arising from the proposals.

## 6.3 **Risk**

6.3.1 There are no significant risks arising from the recommendations in this report.

## 6.4 **Consultation**

6.4.1 No consultation is applicable in respect of this report.

## 6.5 **Climate and Environment Impact**

6.5.1 There is no climate impact from this report.

## 6.6 **Community Impact**

6.6.1 There is no community impact from this report.

## 6.7 **Crime and Disorder Impact**

6.8.1 There is no crime and disorder impact from this report

## 7. **Background Papers**

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7.1 [The LGSCO published information about Council performance on its website.](#)

7.2 [The LGSCO published the annual review letter relating to North Northamptonshire Council on its website.](#)