

## **CORPORATE AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL 8 NOVEMBER 2021**

### **UPDATE ON PERFORMANCE MONITORING OF COMMENTS, COMPLIMENTS AND COMPLAINTS**

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#### **Summary**

1. The Corporate and Communities Overview and Scrutiny Panel has requested an update on the performance monitoring of comments, compliments and complaints.
2. Following a broad overview at the Panel's meeting in July, a further update was requested to set out the feedback received from the Local Government Ombudsman (LGO) for 2021. Each year every local authority receives a letter from the LGO which summarises complaints upheld, compliance with the Ombudsman's recommendations and how many cases the local authority had remedied before consideration by the Ombudsman.
3. The Cabinet Member with Responsibility for Corporate Services and Communication and the Complaints Manager have been invited to the meeting.

#### **Background**

4. The Panel has previously received a detailed report setting out the 3 different representation procedures that Worcestershire County Council (the Council) follows for Children's Social Care, Adult Social Care and Corporate (which includes all other Council services). In addition to the 3 procedures, the Council is also subject to the complaints process of the Local Government & Social Care Ombudsman (LGO) service.
5. At the beginning of November, the 2020/21 Annual Reports for Adult Social Care representations, Children's Social Care representations and Corporate representations will be available on the website. The reports will set out the number of compliments, comments and complaints received in the year and break them down by service area, report on outcomes and timescales and set out learning and improvement in the services as a result of complaints throughout the year.

#### **2020/21 Feedback from the Local Government Ombudsman**

6. The Ombudsman's Annual Letter 2021 to Worcestershire County Council is attached as Appendix 1. Whilst the LGO supplies a spreadsheet listing cases by his reference number, he does not have the capacity to accommodate requests for further information about the data supplied. This makes it difficult to check the cases listed by the Ombudsman, with those the Council are aware of and therefore the numbers do not match. This can simply be because some of the cases are listed as "Invalid, complainant advised" but the LGO has not informed the authority or that the complainant

was advised the LGO required the consent of the service user, but this was not supplied. Occasionally, a complaint is recorded against the Council when it should be against another authority

7. However, all 8 cases that the Ombudsman upheld are on the Council's database. 3 are Children's Social Care complaints, 2 are Special Educational Needs and Disability (SEND) complaints, 2 are Adult Social Care complaints and 1 is a Transport complaint.

#### Children's Social Care

8. One complaint had not been through the Council's complaints procedure as the complainant had already commenced legal proceedings. There was no criticism of the Council for this, but the complaint was upheld due to drift and delay in meeting the assessed need. The second complaint had not been upheld at Stage 1, was partly upheld at Stage 2 and the Stage 3 Review Panel had not disagreed with the Stage 2 findings although they had made some additional recommendations. The Ombudsman upheld the complaint due to inconsistencies over the complainant's status as Child in Need or a Looked after Child. The third complainant had started the complaints process at the Council where his complaint was partly upheld but had then withdrawn and gone to the LGO instead. The Ombudsman upheld his complaint due to initial delays in following up safeguarding concerns and the way his complaint was handled.

#### Children's SEND

9. Both these complaints had been through Stages 1 and 2 of the Corporate Process where, they had both been partly upheld overall. In the first complaint, the LGO found significant delay in finalising an Education Health and Care Plan (EHCP), delay in arranging alternative education and delay in concluding the Stage 2 investigation. In the second case the complainant took one element of her complaint that had not been upheld by the Council to the LGO, who found that the authority had failed to provide alternative education for her child.

#### Adult Social Care

10. In the first case, the complaint was not upheld locally but the LGO found a failure to check that the 3rd party were able to afford to pay the top-up for a residential care placement and a failure to complete the annual review of the 3rd party top-up agreement. In the second case which was partly upheld locally, the LGO found a failure to have explained the Direct Payments (DP) process sufficiently, a failure to check the DP was being properly managed, that money had been paid into the DP account without informing the account holder and that the wrong person had been contacted about the debt accrued

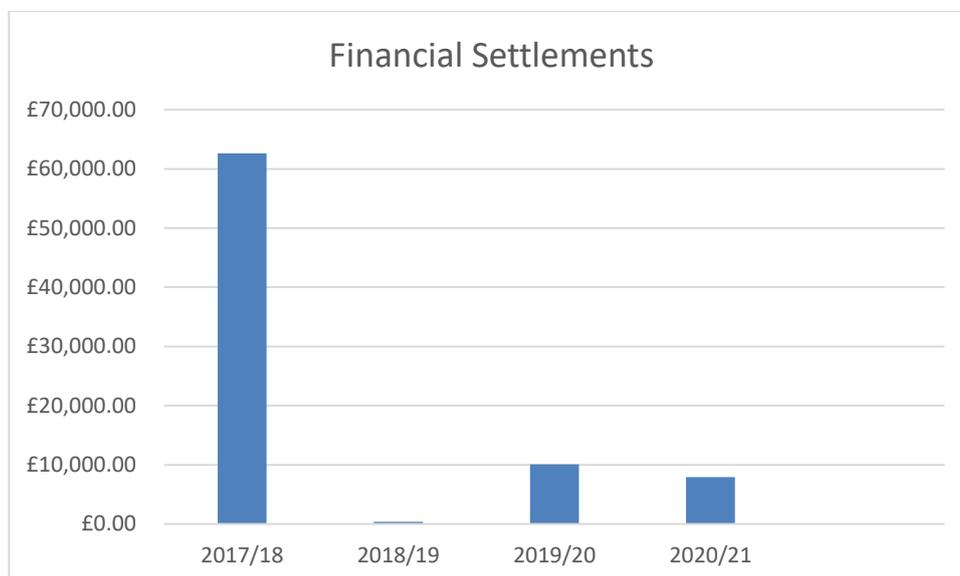
#### Transport

11. This complaint had been dealt with at Stage 2 of the Corporate process as an appeal against refusal of transport had already been conducted by the service which negated a Stage 1 complaint. The Stage 2 investigation did not uphold the complaint however the LGO found fault with the Council's home to school transport policy in respect of unsafe routes and boarding points and found fault with the Authority's transport appeals process.

12. Finally, in the LGO's letter he refers to 3 cases in which the Council was late in complying with the agreed remedies in timescale. All 3 were SEND cases and the remedies were payments of £1204.60, £554.40 and £3,700 respectively. The lowest sum was paid by the Council's Insurers as part of a claim, rather than by Worcestershire Children First (WCF).

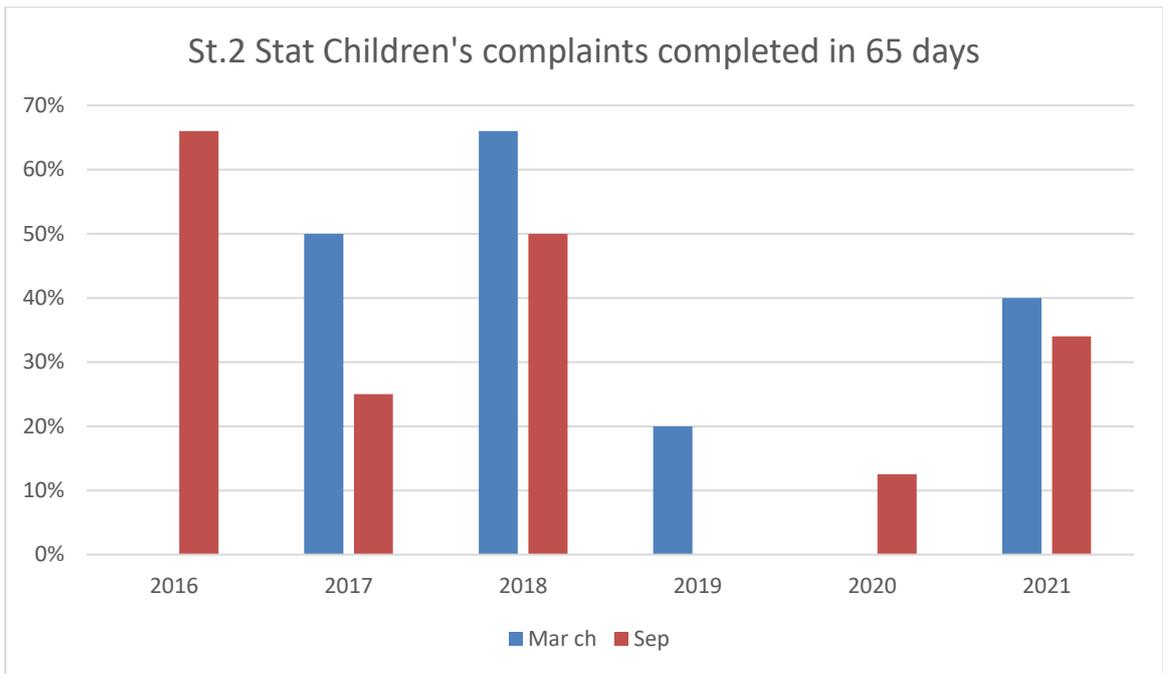
### Financial Settlements from LGO Cases

13. At the last meeting, the Panel asked for some historic information on the levels of financial reparation that the Council have been required to pay out as a result of Ombudsman recommendations. Redress in financial terms can include full or partial write off of money owed, recognised expenses, ex-gratia sums or a sum to recognise the time and trouble a complainant has been put to pursuing their complaint. As it can be seen below, the amount can vary tremendously. In 2017/18 most of the total sum was due to 1 case in Children's Social Care. In 2019/20 there were 6 Adult Social Care cases and 1 Children's social care case contributing to the total.

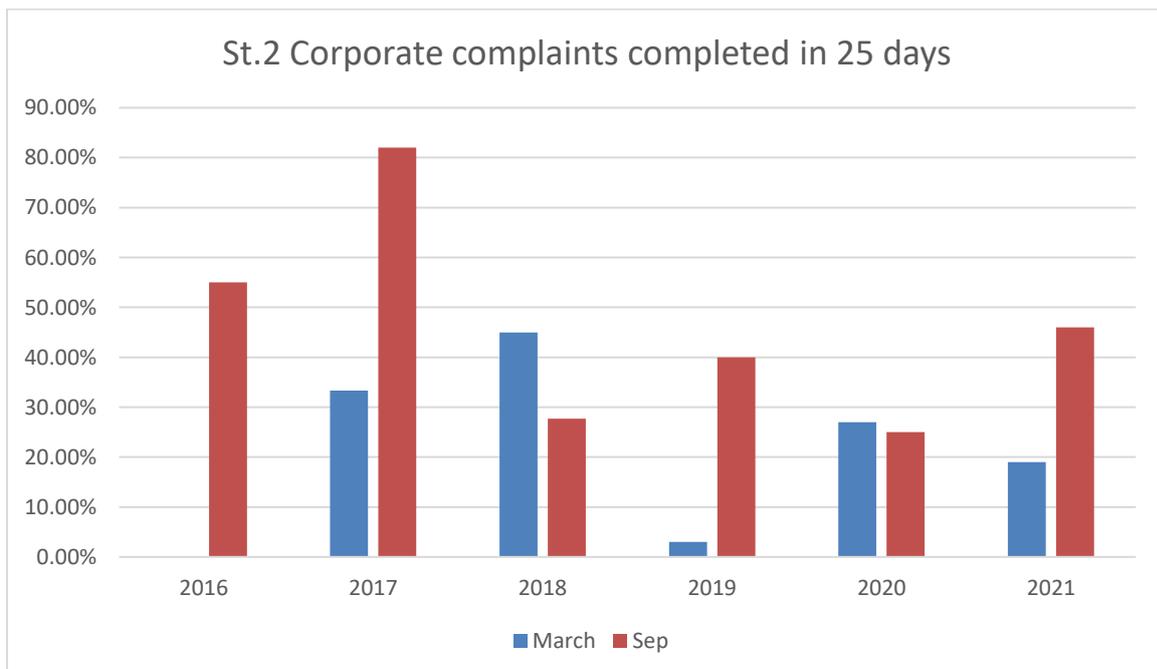


### Quarterly Performance Monitoring

14. The Panel receives a quarterly performance monitoring report which includes performance indicators for Stage 2 Children's Social Care complaints completed within 65 working days and Stage 2 Corporate complaints completed within 25 working days. These particular indicators have been identified as a concern due to low compliance and measures have been put in place to achieve an improvement in this. Members were updated on some of these measures at their last meeting.



15. Slightly more Stage 2 investigations have been completed in the second half of the year with an almost identical compliance rate. Of those not completed in time, 2 were due to the complainants not returning their agreed Records of Complaint for 2 months and the 5 working day timescale that has recently been introduced will mean that this will no longer happen. One case was only 10 days over time and the other was delayed due to essential officers having left the authority, moved to other organisations or on sick leave thus delaying the investigators attempts to interview them



16. There has been an improvement in the number of Stage 2 corporate investigations completed within timescale in the second half of the year. Of those not completed in time, one required input from a Parish Council and the complaint was made by 14 affected residents, one SEND complainant took 7 weeks to return his agreed Record of Complaint, another SEND complaint involved an outstanding number of documents to take account of and in another SEND complaint the original Investigator was taken ill and could not continue, and the investigation had to be re-allocated.

### **Independent Investigators Caseloads**

17. The Panel requested information on average caseloads being held by the Independent Investigators.

- In 2017/18 there were 31 cases investigated independently. This meant an average of 3 cases per investigator. One investigator completed 11 cases (they are a full-time professional investigator) down to one completing their first case;
- In 2018/19 there were 50 cases investigated independently. This meant an average of 6 cases per investigator with the full-time professional investigator completing 10 cases and one completing just 1 case (they were not used again due to their high costs);
- In 2019/20 there were 80 cases investigated independently. This meant an average of 6 cases per investigator with the full-time professional investigator completing 31 cases down to new investigators tackling their first cases;
- In 2020/21 there were 46 cases investigated independently. This meant an average of 4 cases per investigator with the full-time professional investigator completing 9 cases down to an investigator who completed just 1 in the year (they resigned from the pool early that year);
- In 2021/22 to date there have been 30 cases investigated independently with an average so far of 3 cases per investigator. The most so far completed by one person is 5 cases.

18. As a result of the recruitment process undertaken in the summer, 9 new Investigators have been taken on and trained and 7 cases so far have been allocated to the new people. There are also a further 2 new investigators who will join the pool later in the year.

### **Purpose of the Meeting**

19. The Corporate and Communities Overview and Scrutiny Panel is asked to:

- Consider the information provided in the report
- Determine any comments the Panel would wish to make to the Cabinet Member with Responsibility for Corporate Services and Communication
- Agree whether any further Scrutiny is required at this stage.

## **Supporting Information**

Appendix 1 – Local Government and Social Care Ombudsman - Annual Review letter for Worcestershire County Council 2021

### **Contact Points**

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### **Background Papers**

In the opinion of the proper officer (in this case the Assistant Director for Legal and Governance) the following are the background papers relating to the subject matter of this report:

- Agendas and Minutes of the Corporate and Communities Overview and Scrutiny Panel on 20 July and 11 March 2021, 24 January 2020 and 10 December 2019 - [weblink to agendas and minutes for the Corporate and Communities Overview and Scrutiny Panel](#)