

Audit & Governance Committee

Date of Meeting: 27 September 2018

Report Title: Referrals to the Local Government and Social Care Ombudsman 2017-18

Portfolio Holder: Councillor Liz Wardlaw – Deputy Leader

Senior Officer: Daniel Dickinson – Acting Director of Legal Services

1. Report Summary

- 1.1. This report provides a summary of the referrals the Local Government and Social Care Ombudsman (LGSCO) received from Cheshire East customers during 2017/18. This was reported at the May Audit & Governance Committee, but, following the Council's receipt of the LGSCO's annual review in July, the figures have been updated and are outlined in this report the changes are minor and are due to timing differences only.
- 1.2. The Decision Notices issued between 1st February 2018 and 31st March 2018 were reported at the Audit & Governance Committee on 31st July 2018. There was one decision where it was found that there was maladministration causing injustice; there was no recommended action. It is not possible to report on any Decision Notices issued between June and August 2018, as the LGSCO impose a three month reporting embargo. Any decisions received after 31st May will be reported at a subsequent Audit & Governance meeting.

2. Recommendation

- 2.1. That the Committee notes the contents of this report and makes any further response it considers appropriate.

3. Reasons for Recommendation

- 3.1. The Terms of Reference for the Audit & Governance Committee include seeing assurance that customer complaint arrangements are robust and that recommendations agreed with the LGSCO are being implemented.

4. Background

- 4.1. The Local Government Act 1974 established the Local Government Ombudsman (LGSCO). It empowers the Ombudsman to investigate complaints against councils and adult social care providers and to provide advice and guidance on good administrative practice. Once a complainant has exhausted the Council's Complaints procedure, their next recourse, should they remain dissatisfied with the Council's response, is to contact the LGSCO.
- 4.2. The LGSCO will assess the merits of each case escalated to them and seek clarification from the Council as necessary before making the decision to investigate a complaint. Once the LGSCO decides to investigate, they will try to ascertain if maladministration has occurred and whether or not there has been any resulting injustice to the complainant as a result of the maladministration.
- 4.3. In instances where maladministration and injustice is found, the LGSCO will make non-legally binding recommendations which they consider to be appropriate and reasonable. Although not legally binding, refusal to accept the LGSCO's recommendation will trigger a Public report. A Public Report is a detailed account of the complaint, outlining the failures by the Council in this particular investigation; this can have a significant damaging effect on the Council's reputation.

5. Briefing Information

- 5.1. All customers are offered the opportunity to appeal to the LGSCO if they are unhappy with the way in which the Council has handled their complaint.
- 5.2. **Appendices 1a and 1b** show the number of Decision Notices issued to the Council during 2017/18 (91) and 2016/17 (73). During 2017/18, the LGSCO issued Decision Notices on 91 cases. 47 of these cases were closed after the LGSCO conducted their initial enquiry, 24 of the complaints were upheld in the customer's favour and 20 were not upheld.
- 5.3. Of the 24 upheld cases, it was considered that in 8 of these there was no injustice to the complainant and in 16 cases maladministration causing injustice was found.
- 5.4. The increase in the number of upheld complaints when compared to the previous year can be partly attributed to the Council's decision to withdraw the eligibility for home to school transport following the review of some of the school walking routes. Although the LGSCO did not find fault with the way in which this review was carried out, they did find fault in 6 of the 24 upheld complaints as a result of the Council advising appellants that they could not appeal the decision on the grounds of route safety which was incorrect.

- 5.5. During 2017/18 the LGSCO upheld (in the complainant's favour) 55% of cases where they undertook detailed investigations. This is a 14% increase from 2016/17 when the LGSCO reported an upheld rate of 41%.
- 5.6. Whilst this represents an increase, this is still below the national average rate of 57%. Furthermore the actual number of cases (24) represents only 1% of the total number of complaints (1898) the Council received during 2017/18.
- 5.7. During 1st April 2018 and 31st May 2018 the Council received one Decision Notices in which the LGSCO have concluded that there has been maladministration causing injustice. This is detailed in Appendix 2.
- 5.8. All decision notices are shared with the relevant Head of Service and Manager of the service in question. This is to ensure that they are aware of any learning points identified and implement the necessary changes.
- 5.9. In the instances when the LGSCO make recommendations these are logged, tracked until completion and evidenced back to the LGSCO to demonstrate the Council's compliance with their decision.

6. Implications

6.1. Legal Implications

- 6.2. There are no legal implications flowing directly from the content of this report.

6.3. Financial Implications

- 6.4. If fault causing injustice is found, the Council can be asked to pay compensation to a complainant. This risk is reflected in the annual review of the Council's reserves strategy. In the period being reported, the Council was not required to make any compensation payments.

6.5. Policy Implications

- 6.6. Adherence to the recommendations of the LGSCO is key to ensuring that customers have objective and effective recourse should they be unhappy with the way in which the Council has responded to their complaint.

6.7. Equality Implications

- 6.8. There are no equality implications flowing directly from the content of this report.

6.9. Human Resources Implications

- 6.10. There are no HR implications flowing directly from the content of this report.

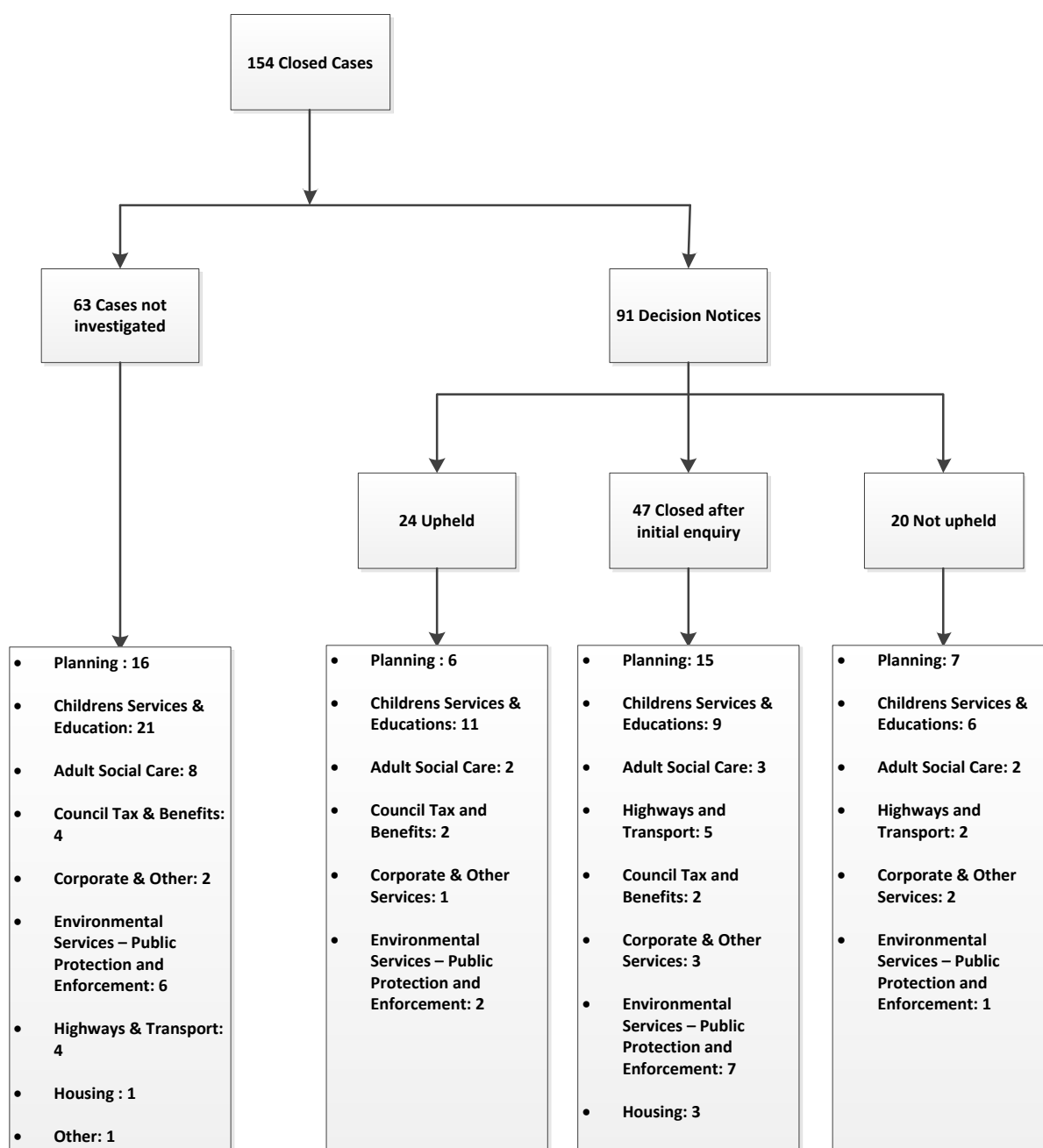
7. Contact Information

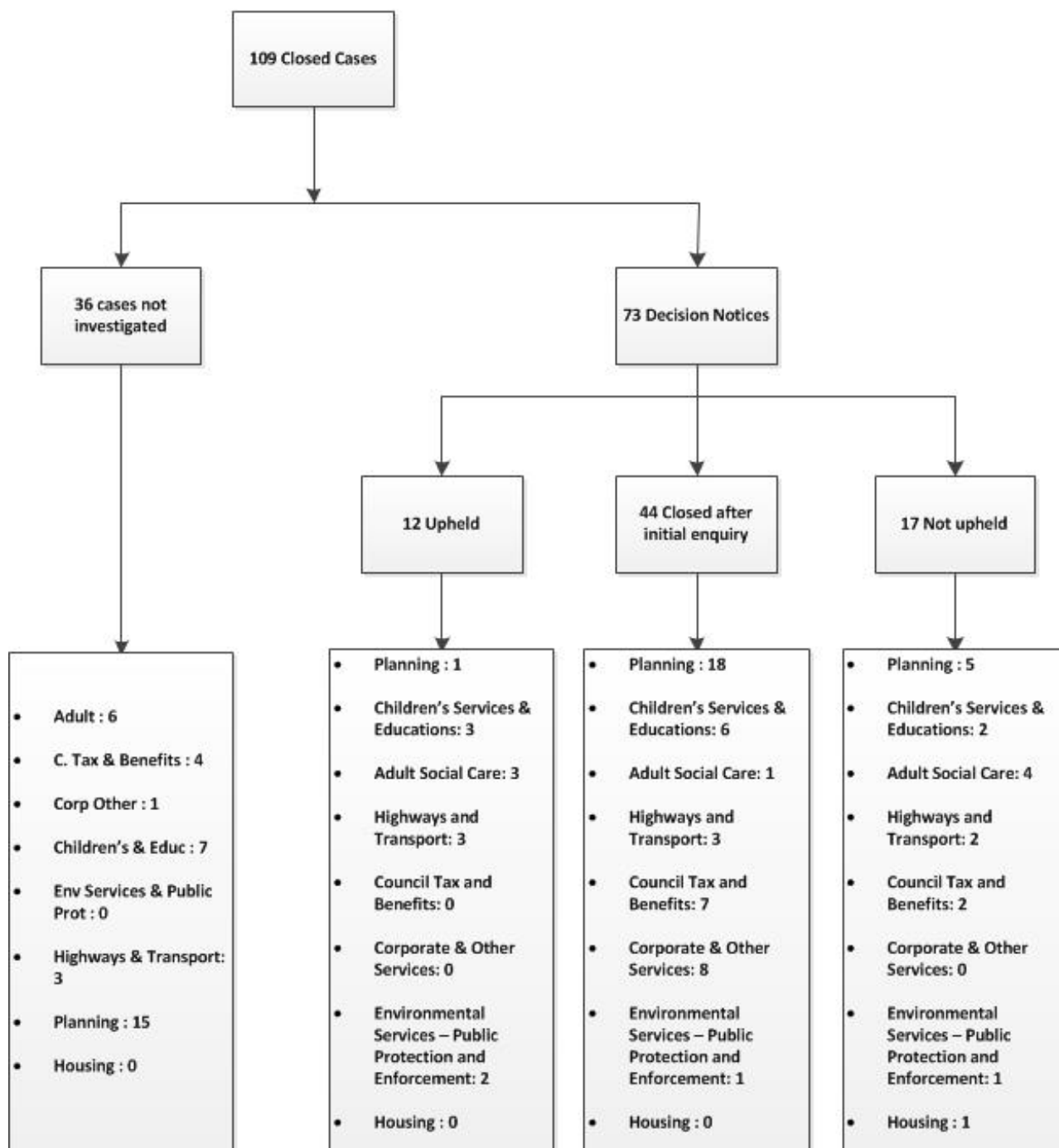
Any questions relating to this report should be directed to the following officer:

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**LGSCO Decisions where maladministration with injustice has
taken place April – March 2018 Appendix 2**

Service	Summary and Ombudsman's Final Decision	Agreed Action	Link to LGSCO Report
Highways	<p>Mr X complained the Council deliberately excluded him from consultation about the move of a bus stop immediately outside his home, and, at one stage wrongly told him it was no longer going to move it. Mr X can no longer park on the road outside his house. He says there is anti-social behaviour by people waiting for buses and the value of his property has reduced.</p> <p>Ombudsman's final decision The Council was not at fault in the way it reached its decision. The Council was at fault for providing some wrong information and not telling Mr X when it would install the new bus stop. It has already apologised for this which is an appropriate remedy.</p>	N/A	https://www.lgo.org.uk/decisions/transport-and-highways/street-furniture-and-lighting/17-011-600