

**AUDIT COMMITTEE**  
**27 SEPTEMBER 2019**

<b>Title of paper:</b>	Have Your Say Complaints Annual Assurance Report – Including Local Government Ombudsman Annual Letter 2018-19	
<b>Corporate Director:</b>	Candida Brudenell, Strategy and Resources	<b>Wards affected:</b> All
<b>Report author and contact details:</b>	Vanessa Jenkins – Customer Experience Lead <a href="mailto:vanessa.jenkins@nottinghamcity.gov.uk">vanessa.jenkins@nottinghamcity.gov.uk</a> 0115 87 61527	
<b>Other colleagues who have provided input:</b>	Dominic O’Melia, Customer Experience Manager Patrick Skeete, Social Care Complaints & Representations Manager Nancy Barnard, Governance and Electoral Services Manager	
<b>Recommendation:</b>		
<b>1</b>	that the Committee notes the contents of the report.	

**1. REASONS FOR RECOMMENDATIONS**

1.1 This report provides a reflection of the complaints received:

- under the Have Your Say (HYS) process;
- under the statutory Social Care complaints process;
- under the School Admission complaints process.

and the decisions made on these complaints about Nottingham City Council by:

- Nottingham City Council (NCC);
- the Local Government Ombudsman (LGO).

for the period of 01 April 2018 to 31 March 2019. The information is taken from NCC records and the LGO Annual Letter, which is issued to all Councils and is published on the Ombudsman’s website.

1.2 Capturing customer experience and learning from complaints is important, it enables the council to reflect on feedback about its services and facilitates service improvements and innovation. An outcome of an upheld complaint can be a recommendation for a service improvement, which is welcomed as another source of reflection and learning for the organisation.

1.3 Whilst it is important to capture customer experience, we also need to be mindful that each complaint represents time which the citizen, and the colleague investigating and responding could have used on other activities. This is particularly relevant as the Council’s resources are shrinking. The Customer Experience team therefore aim to support colleagues to achieve lower complaint rates and this report helps to identify the level of success in achieving this aim within Council services.

1.4 We also note that a citizen's opinion of Council services in general can be affected by their experiences with an individual service, so by providing a satisfactory service (and in some cases by effective communication of a well-organised, complete, and timely complaint investigation), colleagues can improve the Council's reputation and future contact with citizens.

1.5 We continue to maintain a good working relationship with the LGO Assessment and Investigation teams. The Customer Experience Lead acts as a Link Officer between the LGO and NCC to liaise with Council services and ensure deadlines are met.

## **2. BACKGROUND**

2.1 To enable Nottingham City Council to deliver high quality services it is important that we record and listen to feedback from people using Council services. Through the Have Your Say (HYS) process, we aim to handle comments, complaints and compliments in a fair and consistent way, maintaining openness and transparency. Complaints can help us identify any trends in service failures and make improvements by learning from root cause analysis.

2.2 There are currently two complaints teams within Nottingham City Council. One team handles the statutory complaints in relation to Children and Adults Social Care Services, and the HYS team handles the complaints and feedback for all other Council services. There are some areas that cannot be dealt with by the HYS complaints process as they are covered by another process or legal procedure. These exemptions include:

- Appeals against refusal of planning permission or against conditions placed on a grant of planning permission;
- A complaint about social care services (children and adults);
- A school admission or exclusion appeal;
- A complaint about a school;
- A complaint from a City Council employee about an employment matter;
- An appeal against the issue of a penalty charge notice by the parking enforcement team and the recovery process which follows;
- Dispute a fixed penalty for environmental crimes (including dog-fouling);
- Dispute a penalty charge notice for Bus Lane Contravention;
- Any appeal against the exercise of a police power;
- A complaint about the refusal of disabled badges for parking exemption;
- A complaint about the independent Rent Officer;
- A complaint about Anti-Social Behaviour;
- A complaint about Nottingham City Homes;
- Appeals regarding Resident Permits/Dispensation Access Permits.

2.3 The LGO oversee some but not all of the HYS exemptions. This includes Social Care complaints and School Admissions appeals. They do not oversee the exemptions that have prescribed appeal routes.

2.4 Implemented in 2016, the HYS service operates a two-stage complaints handling process. At Stage 1, the customer's feedback is triaged to the appropriate service for investigation and response/remedy. If the customer remains dissatisfied once the complaint has completed the first stage of the process, they can request a review of the complaint handling at Stage 2, which is carried out by the Customer Experience Lead.

2.5 The following analysis is reported by volume of complaints so that Councillors can understand better the experience of customers.

### **3. THE LOCAL GOVERNMENT ANNUAL REVIEW**

3.1 On 31 July 2019 the LGO launched their annual review of local government and social care complaints for 2018-19. This year they have provided more data to show how they are helping to improve local services. They now show data for compliance with recommendations they have made, and the number of cases where each authority has provided a satisfactory remedy before the complaint reached the LGO.

3.2 Nationally the LGO received 16,899 complaints and enquiries about councils in England (it does not cover Scotland or Wales). Of those complaints 4,232 had detailed investigations and 58% were upheld. This compares to 17,452 complaints and enquires received in 2017-18, of which 4,020 had detailed investigations and 57% were upheld.

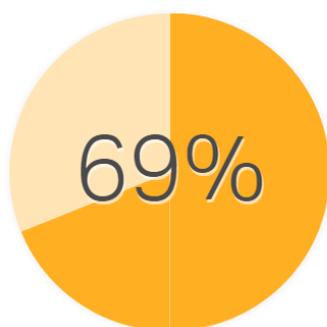
3.3 This year's LGO Annual Review statistics tells us that over a third of the complaints and enquiries they received were about Education and Children's Services or Adult Social Care. The highest proportion of complaints they upheld relate to Benefits and Tax and the fewest were about Planning and Development.

3.4 The LGO is now publishing the information for the Annual Review on a new interactive map, which is called 'Your Council's Performance.' This new tool gives a snapshot of the service improvement recommendations and highlights the key statistics and how they compare to similar authorities.

3.5 The link to the council performance interactive map is as follows:

<https://www.lgo.org.uk/your-councils-performance/nottingham-city-council/statistics>

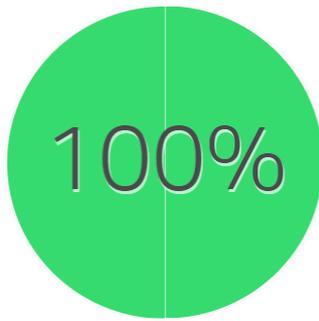
3.6 The snapshot data published on the interactive map for NCC is shown as:



■ 69% of complaints we investigated were upheld.

This compares to an average of 55% in similar authorities.

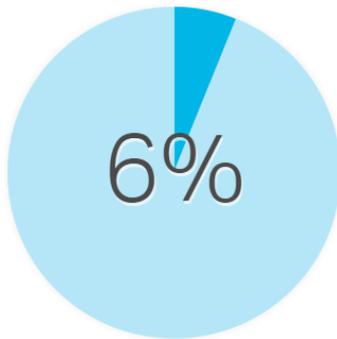
26 cases were investigated



In **100%** of cases we were satisfied the Council had successfully implemented our recommendations.

This compares to an average of **100%** in similar authorities.

18 cases of the 26 were upheld



In **6%** of upheld cases we found the Council had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **11%** in similar authorities.

3.7 The following key facts and figures will provide an in-depth analysis of the LGO's data published for NCC so that Councillors can identify areas that are performing well and areas for improvement considerations as well as see the root causes for these trends.

#### 4. LGO REVIEW LETTER – KEY FACTS AND FIGURES

4.1 The LGO Annual Review Letter shows that they received 104 complaints and enquiries about NCC for the 1<sup>st</sup> April 2018 to 31<sup>st</sup> March 2019 period. Out of the 104 received, 98 were issued with decisions. 27 were treated as premature, 2 were requests for advice and 10 were either incomplete or invalid, leaving 59 cases to be investigated. Of these 59 cases 26 involved detailed investigations by the LGO and 18 of these were upheld.

4.2 This data shows a significant increase in upheld complaints from last year. The table below outlines the results of the LGO Annual Review for 2019 in comparison to the previous three years:

Annual Letter	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Received	105	100	103	104
Decided	112	98	98	98
Upheld	13	8	4	18
Not Upheld	14	15	11	8
Closed	85	75	83	72
Uphold Rate	48%	35%	27%	69%

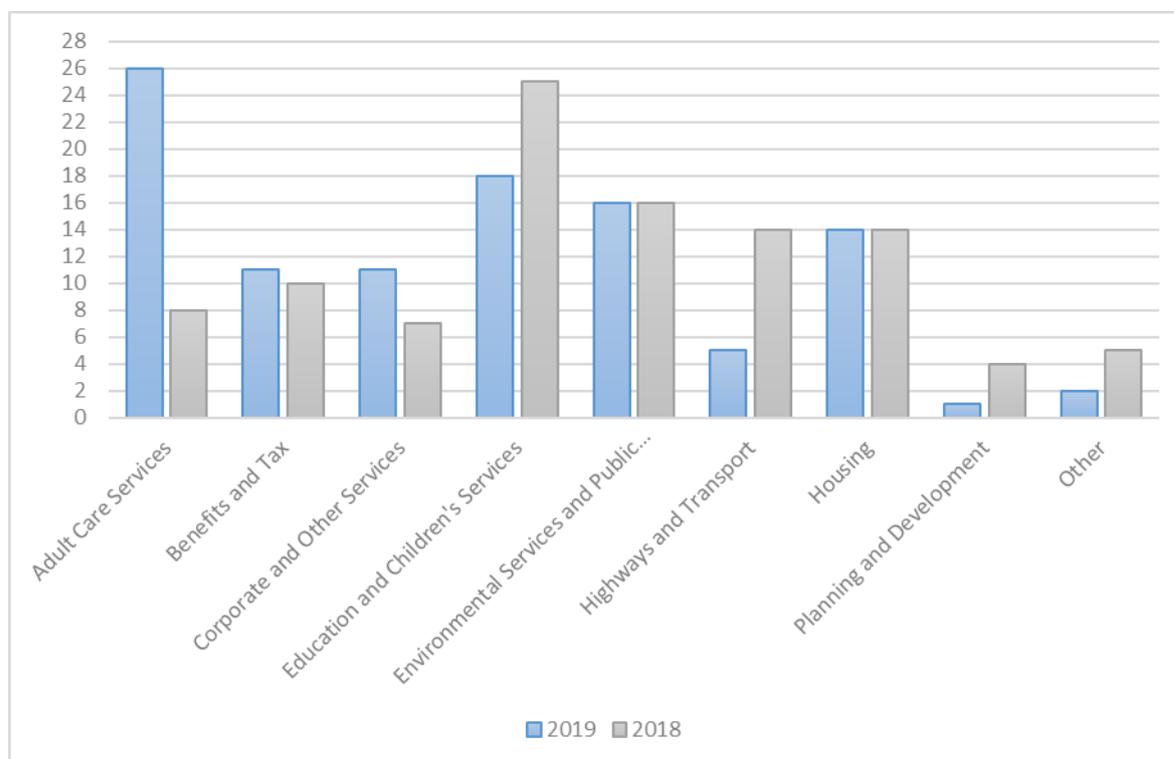
4.3 We recognise that the 26 cases investigated is a very small sample of all complaints dealt with by NCC and that statistically it may not be representative of our complaints process. However we have attempted to identify any learning applicable.

4.4 The LGO categorise the complaints they receive. Looking at the 2019 data in more detail, a breakdown of the information published in by the LGO in their given categories is shown as follows:

Service Category	Rec'd	Decided	Upheld	Not Upheld	Referred back / Closed / Incomplete / Invalid
Adult Care Services	26	23	8	1	14
Benefits and Tax	11	9	0	1	8
Corporate and Other Services	11	9	0	2	7
Education and Children's Services	18	18	8	1	9
Environmental Services and Public Protection and Regulation	16	16	1	2	13
Highways and Transport	5	4	0	0	4
Housing	14*	16*	1	1	14
Planning and Development	1	1	0	0	1
Other	2	2	0	0	2
<b>Total</b>	<b>104</b>	<b>98</b>	<b>18</b>	<b>8</b>	<b>72</b>
Total via HYS Team	60	57	2	6	49

\*Discrepancy in figures for Housing: 14 cases showing as received and a higher number of 16 cases decided, due to decided date crossover into the new financial year.

4.5 This compares to last year's annual review as follows:



4.6 It is important to note that the categories defined in the LGO review data do not accurately reflect the department and service area that the complaint would relate to within NCC. For example, a case that was categorised by the LGO as 'Housing' actually related to a complaint about the Community Protection Service.

4.7 To better understand the areas for focus from the LGO statistics, it is important to look at the complaints decision statements and public reports in more detail in order to define the service area that it falls within at NCC.

4.8 In some cases the LGO will not publish the decision statement for an investigation. We also do not have data on complaints to the LGO that were incomplete/invalid or premature so this report can only reflect in more detail on the data for the 59 decisions that were published. The 39 cases not published were either premature or referred back for local resolution.

4.9 After reviewing each individual case's decisions statements and public report summaries, the complaints have been identified as follows:

<b>NCC Directorate</b>	<b>Decision Statement</b>	<b>Public Report</b>	<b>Upheld</b>	<b>Not Upheld</b>	<b>Closed after initial enquiries</b>
Adult Social Care	14	0	8	1	5
Children's Integrated Service	8	0	4	1	3
Commercial Infrastructure & Energy Services	1	0	0	0	1
Community Protection	12	0	2	2	8
Education Strategy	5	1	4	0	2
HR & Customer	2	0	0	1	1
Legal & Governance	4	0	0	0	4
NCH	3	0	0	0	3
Neighbourhood Services	2	0	0	1	1
Planning	1	0	0	0	1
Property	1	0	0	0	1
Revenue & Benefits	4	0	0	1	3
Traffic & Transport	1	0	0	1	0
<b>Total</b>	<b>58</b>	<b>1</b>	<b>18</b>	<b>8</b>	<b>33</b>

4.10 This breakdown of the data gives a clearer picture about which Council service the LGO complaints and outcomes relate to, and allow us to accurately identify service failures and improvements by carrying out root cause analysis.

4.11 Reflecting on the information breakdown, we can identify that the services with the most upheld cases are with Adult Social Care, with an 89% uphold rate, Children's Integrated Services with an 80% uphold rate and Education Strategy with a 100% uphold rate.

4.12 As this is a relatively small sample of all complaints the % increase is less important than the increase in number of upheld. The increase in number of upheld complaints from the previous three years raises concerns as the overall figures for received and decided complaints have remained on par with those from the previous three years. However from this analysis of the data, the increase in upheld complaints are within Adult Social Care and School Admissions which are not areas covered by the HYS Process.

4.13 Since 01 April 2018 the Council has agreed to make improvements to services following an investigation from the LGO on 8 cases. Of those 8 cases for service improvement, 2 were for Children's Integrated Services, 2 for Adult Social Care, 3

for Schools Admissions and 1 for Community Protection. These are highlighted on the Council's performance page on the LGO website here:

<https://www.lgo.org.uk/your-councils-performance/nottingham-city-council/statistics>

4.14 In the last five years the LGO have published 1 Public Interest Report against Nottingham City Council. This related to a complaint investigation concerning a Schools Admissions Appeal as noted above (should be above in final version). The full report can be viewed here:

<https://www.lgo.org.uk/information-centre/news/2018/jul/city-council-told-to-reconsider-school-admission-appeal-after-ombudsman-investigation>

4.15 A closer look at the complaints data held by NCC will help us to understand the complaints trends and address where things have gone wrong. This will be broken into the HYS complaints, Social Care complaints and School Admissions complaints.

## **5. HYS COMPLAINTS – KEY FACTS AND FIGURES**

5.1 From 01 April 2018 to 31 March 2019 the HYS service have processed 3984 Stage 1 complaints and 69 Stage 2 complaint reviews.

5.2 The top ten areas for complaints dealt with by HYS were:

• Waste	1379
• Council Tax	193
• CPO's/Traffic Wardens	111
• Traffic and Safety	106
• Car Parks (Pay+Display/Barriers/Contracts)	74
• Selective Licensing	66
• Highways	60
• Trees	51
• Housing Benefit	51
• Parks and Open Spaces	31

5.3 The high volume of HYS complaints for waste are primarily residents complaining about issues with their bin collection. It is important to note that these are not missed bin reports (which are logged as a service request not complaints) but are complaints about frequently missed collections and failures to collect missed bin reports.

5.4 Another issue here – next highest or highest in any other service.

5.5 Add paragraph here about generic issues e.g. complaints about communication, not following our own process / policy, and trends for these – if available provide figures / statistics including learning points, completion of learning points and resulting level of complaint– if not consider as point for development (i.e. baseline this year for next year's report, trends in following report)

5.6 Of the 3984 Stage 1 complaints handled through the HYS process, 69 were reviewed by the Customer Experience Lead at Stage 2. With only 2% of the total complaints progressing to Stage 2, this demonstrates that many complaints were resolved at the

early stages and that the HYS quality assurance of complaint responses is an effective process. Any persistent issues here

5.7 Only 3% of the HYS handled complaints investigated by the LGO were upheld.

5.8 Of the 26 complaints investigated in detail by the LGO, 8 cases were for services covered by the HYS process. Only 2 of these complaints were upheld decisions, both of which were about Community Protection services from the same complainant. This is a positive indicator that the HYS two-stage complaint handling process ensures most complaints are remedied at the early stages. Only a very small percentage of the total complaints dealt with have been investigated and upheld by the LGO.

5.9 With only 2% of the total HYS complaints for this period progressing to Stage 2 to be reviewed, this demonstrates that many complaints were resolved at the first stage and that the HYS quality assurance of complaint responses is an effective process.

## **6. SOCIAL CARE COMPLAINTS – KEY FACTS AND FIGURES**

6.1 The Social Care Complaints Service manages the statutory social care complaints procedure for both Children and Adult services. The statutory processes are different for both service areas.

### **Children's integrated Services**

6.2 In 2018/2019 a total of **232** new complaints were received and considered about Children's Integrated Services. This is a decrease of 30% compared with the previous reporting period when 335 complaints were received.

6.3 The children's statutory social care procedure has three distinct stages; local resolution, investigation and independent review.

6.4 At the first stage, (local resolution) the Social Care Complaints Service refers complaints onto operational managers in order for them to consider and respond to the complaint. The Social Care Complaints Service records and monitors these responses. As with previous years, over 90% of complaints were resolved at this stage.

6.5 At stage 2 the Social Care Complaints Service allocates an independent investigator to look into the complaint. There were 11 stage 2 investigation requests received during the last reporting period, compared with 14 in the previous year. Following a gradual improvement over the last few years, this year, for the third year in succession, 100% of the investigations were completed within the timescale, which marks a significant improvement made over the last few years, and one which we hope will be sustained.

6.6 The final stage is an Independent Complaints Review Panel comprising of three Independent People. There were 4 stage 3 panels during the last reporting period. The panels mostly agreed with the Independent Investigators' findings and recommendations, but sometimes added further recommendations.

### **Resolutions offered**

6.7 **Stage 1:** Stage one complaints received a written explanation and where a complaint was upheld or partly upheld an apology was also provided. New or review assessments were undertaken in some instances.

**Stage 2:** Of the 11 stage two investigations where an element of the complaint was fully or partly upheld, all were offered an apology.

**Stage 3:** the 4 panels accepted the investigators' findings, and made no additional recommendations, except in one case where the Panel supported the investigator's findings, but made some additional recommendations and apologies.

### Local Government Ombudsman investigations

- 6.8 Complainants can make a complaint to the Ombudsman at any time but the Ombudsman will usually ask complainants to complete the local authority complaints process before considering complaints himself.
- 6.9 The Ombudsman considered eight complaints. There was no finding of fault against the council in 6 of the complaints reviewed by the Ombudsman. However, the Ombudsman found fault and maladministration leading to injustice in two of the complaints made during 2018/2019.
- 6.10 The Ombudsman made no recommendations in one case as he was satisfied that the stage 2 investigation had already provided sufficient redress; but in the other case he recommended compensatory payments be made to both a foster carer and a foster child in respect of poor communication, and recommended a review of procedures.

### Adult Services

- 6.11 In 2018/2019 a total of **278** complaints were considered about adult social care services, which is the highest ever recorded, compared with 2017/2018 when the Social Care Complaints Team received 193 new complaints about adult social care services.
- 6.12 This is the first year the figure has exceeded 200, but the increase is largely the consequence of the introduction of a new policy, which resulted in a number of complaints during the initial settling in period of the new procedure.
- 6.13 The Adult procedure has a one-stage process, which allows flexibility within the management of a complaint. The Complaints Team usually refers complaints in the first instance to operational managers or commissioned services for their consideration and response. Where the complaint has potentially serious implications for either an individual or the Department or it is complex, it may be necessary to undertake/commission an investigation.
- 6.14 Complaints are often resolved by way of a written response, investigation or mediation, with the exception of **19** that were considered by the Ombudsman, which is a marked increase on the 3 that were considered by the Ombudsman during the previous year.

Category Of Complaint	Number
Unwelcome or disputed decision	151 (61)
Concern about the quality or appropriateness of the service	67 (56)
Delay in Decision Making	4 (2)

Delivery or non-delivery of services including complaints procedures	11 (4)
Quantity, frequency, change or cost of a service	1 (2)
Attitude or behaviour of staff	22 (22)
Application of eligibility and assessment criteria	0 (0)
Impact on an individual of a local authority policy and Assessment, care management and review	4 (3)
Not Recorded	18 (43)

**Note: Previous reporting period's figures in brackets**

6.15 Complaints about unwelcome decisions and the quality and/or appropriateness of a service continue to be the most common complaints.

6.16 The breakdown of complaints was broadly similar to that of the previous reporting period; however, the significant increase in the number of complaints about unwelcome decisions was due to changes brought about by the new transport policy and reductions in care packages. The complaints "not recorded" were mostly out of jurisdiction complaints, including complaints made by professionals; complaints about other agencies e.g. the NHS or county council; complaints where a citizen's consent was not forthcoming; and complaints from citizens about other councils etc.

OUTCOME	Responded to by Department	Investigated	Mediation
Complaint Not Pursued	22 (23)	0 (0)	0 (0)
Mostly not upheld	22 (17)	0 (0)	0 (0)
Mostly upheld	9 (12)	0 (0)	0 (0)
No findings made	27 (13)	0 (0)	0 (1)
Not decided	0 (1)	0 (0)	0 (0)
Not Upheld	117 (62)	0 (1)	0 (0)
Upheld	37 (22)	0 (0)	1 (0)

**Note: Previous year's figures in brackets**

6.17 20% of complaints about Adult Social Care were either fully or mostly upheld, which is similar to 22% during 2017/18. 59% of complaints were not upheld or mostly not upheld; and 21% were either not pursued by the complainant or no findings were made.

**Complaints to the Local Government Ombudsman**

6.18 In 2018/2019, 19 adult social care complaints were considered by the Ombudsman, compared with 3 in the previous year's reporting period. Of the 19 complaints, 10 were upheld, whilst no fault was found in the remaining 9 complaints.

6.19 This substantial increase in Ombudsman's investigations was due, in part, to the number of complaints about transport decisions received after the revised transport policy took effect. Four transport complaints were not upheld by the Ombudsman; but in three other transport complaints, the Ombudsman found maladministration and injustice, and recommended both a change to the policy and a review of a number of decisions.

## **7. SCHOOL ADMISSIONS – PUBLIC INTEREST REPORT**

7.1 School Admissions appeals are heard by Independent Panels and any complaints about the process have to be referred directly to the LGO for maintained schools and to the Education and Schools Funding Agency for academies. These complaints are therefore not covered by HYS or Social Care complaints. However, they are mentioned within this report due to an appeal hearing being subject to a report by the LGO.

7.2 During the period covered by this report three school appeal cases were referred to the LGO out of a total of 290 admission appeals heard and significantly more processed that did not reach the hearing stage. No cases were referred to the Education and Schools Funding Agency.

7.3 On 05 July 2018 the LGO published a Public Report dated 17 May 2018 further to a complaint investigation about a schools admissions appeal. (See paragraph 4.12). The report related to an admission appeal hearing held on 23 January 2017, initially referred to the LGO in June 2017. Prior to its publication, the LGO substantially amended the final report and its findings following concerns raised by colleagues in relation to the process followed during the investigation and the content of earlier versions.

7.4 The School Admissions and School Appeals Teams complied with the recommendations made in the final version of the LGO's report, resolving the case to the LGO's satisfaction. This is reflected in NCC's 100% compliance with LGO recommendations. The LGO report, and the actions taken as a result of the recommendations made within it, were brought to the Audit Committee in July 2018 and considered in public session.

## **8. NATIONAL COMPARISONS**

8.1 Although there are many differences in how local authorities across England will deliver their services, and in the varying demographic of customers they serve, it is still important to consider how we compare to other city councils.

8.2 Comparisons for complaints as whole are currently available. We will continue to seek to source this data.

8.3 Nottingham is 1 of 10 core cities in the UK (8 in England). Due to the low numbers of complaints investigated for each core city, the variation year on year in upheld rate can be significant and a city can go from best to worst performing on this statistic or vice versa in successive years, without the underlying performance of the systems concerned being responsible. The table below shows a comparison of Nottingham City Council's LGO statistics against the other core city authorities of Birmingham, Bristol, Manchester, Liverpool, Leeds, Sheffield and Newcastle:

	<b>Nottm City</b>	<b>Birmingham City</b>	<b>Bristol City</b>	<b>Manchester City</b>	<b>Leeds City</b>	<b>Sheffie Id City</b>	<b>Newcastle upon Tyne City</b>	<b>Liverpool City</b>
<b>Total LGO Investigations</b>	26	100	18	38	47	35	14	30
<b>Total Upheld Decisions</b>	18	77	12	21	21	22	9	22
<b>% Upheld</b>	69%	77%	67%	55%	45%	63%	64%	73%
<b>Total Satisfactory Remedies</b>	1	10	3	6	1	3	4	3
<b>% Remedied</b>	6%	13%	25%	29%	5%	14%	44%	14%
<b>Total Compliance Outcomes</b>	16	48	10	17	23	15	3	20
<b>% Compliance</b>	100%	100%	100%	100%	100%	100%	100%	100%

## **9. SUMMARY AND ACTION**

9.1 The information compiled in this report aims to provide a clearer understanding of the published LGO statistics for Nottingham City Council in 2018/19. It is important to remember, when looking at the figures, that the Annual Review should form the start of the conversation about measuring corporate health, and low/high volumes do not solely indicate good or bad performance.

9.2 On reflection of the key facts and figures, it is clear that actually NCC resolve many of the complaints it receives at the early stages. Although the LGO statistics show a complaint as upheld it may have already been resolved by the Council. The Customer Experience Lead raised this with the LGO who provided comment that:

‘A complaint is upheld where there is evidence of maladministration, this is normally following a detailed investigation. However, there are cases where an authority will have already accepted fault and without needing to carry out a detailed investigation we decide the authority has done all it can to put things right. We still mark these cases as upheld, because fault has been identified in a complaint that has come to us. The decision statement, your annual statistics and our interactive map all reflect these cases in a positive light. While the complaint was upheld, the authority provided a satisfactory remedy before the complainant reached the Ombudsman. If an authority has 10 upheld complaints, but has satisfactorily remedied 8, we see that as a positive message where the authority is putting things right early. By then using the learning from upheld complaints, the authority can continue to improve its local services to prevent the same thing happening again.’

9.3 The Customer Experience Lead has attended the LGO open course on Effective Complaint Handling and is developing a complaint handling training programme for Nottingham City Council. This will aim to increase colleague understanding of the HYS process and to develop a more consistent approach to complaint handling across all council services.

9.4 The Customer Experience Lead and Customer Experience Manager are in the process of reviewing how the HYS service captures data about the comments, compliments and complaints in order to develop more efficient methods to interrogate the data and identify trends earlier.

## **10. PUBLISHED DOCUMENTS**

10.1 Published documents referred to in this report are:

- Local Government & Social Care Ombudsman Annual Review Letter 2019  
*Published 31 July 2019*
- Local Government & Social Care Ombudsman Review of Local Government Complaints 2018-19  
*Published 31<sup>t</sup> July 2019*