

16 SEPTEMBER 2022

MEMORANDUM OF UNDERSTANDING

between

OFFICE FOR ENVIRONMENTAL PROTECTION

and

LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN

PARTIES

The Office for Environmental Protection (OEP) of Worcestershire County Hall, Spetchley Road, Worcester WR5 2NP, and

The Local Government and Social Care Ombudsman (LGSCO) of PO Box 4771, Coventry, CV4 0EH.

PURPOSE AND SCOPE

1. This Memorandum sets out the framework for the working relationship between the OEP and LGSCO. It is intended to inform our staff and the public about how our organisations wish to work together.
2. The OEP and LGSCO are independent bodies that recognise each other's statutory powers and responsibilities. Their duties and powers are not limited in any way by this Memorandum and this Memorandum is not legally binding, and no legal duties, rights or obligations arise from it. However, OEP and LGSCO may collaborate and co-operate, where appropriate and lawful to do so, to further their shared aim of ensuring environmental legislative compliance and will seek to follow the principles set out in this Memorandum.
3. Each organisation will take steps to ensure that relevant staff are aware of what is in this Memorandum. They will keep staff updated about any changes to it and the responsibilities it places on each organisation and the work that they do.

LEGISLATIVE FRAMEWORK AND CORE FUNCTIONS

The OEP

OEP was established under the Environment Act 2021. Its principal objective is to contribute to environmental protection and the improvement of the natural environment.

OEP has statutory functions to hold public authorities to account for their environmental commitments. These include enforcement functions, under which the OEP may, amongst other things, receive complaints and undertake investigations into public authorities' suspected failures to comply with environmental law. The OEP can undertake investigations only where it believes that a public authority's failure to comply with environmental law would be "serious". The OEP's functions also include providing scrutiny of the UK Government's 25-year environment plan, advising Government on environmental law and related matters and monitoring and reporting on the implementation of environmental law.

Public authorities must co-operate with the OEP, and give it such reasonable assistance as it requests, including through the provision of information. Except in limited circumstances the OEP must keep such information confidential until after it decides not to take further steps in relation to a matter.

Under section 23 of the Environment Act the OEP must prepare a strategy which, amongst other things, set out how it intends to avoid overlap between the exercise of its complaints handling functions and functions of relevant ombudsmen, which include LGSCO. The OEP's strategy may be found at www.theoep.org.uk/report/our-strategy-and-enforcement-policy.

LGSCO

LGSCO was established by the Local Government Act 1974. The LGSCO investigates complaints from the public about injustice caused by maladministration or service failure by a local authority in England or various other organisations within its jurisdiction.

LGSCO is also the social care ombudsman for England. In this role, LGSCO have jurisdiction to carry out independent investigations into complaints about any matters connected with the provision of adult social care. This is a seamless service covering all types of adult care in the public, private and third sectors irrespective of who funds or arranges that care.

LGSCO can recommend a suitable remedy (which can include financial redress) for any injustice found.

LGSCO also has a statutory duty to provide guidance on complaints standards and this may be found at <https://www.lgo.org.uk/information-centre/information-for-organisations-we-investigate/guidance-notes>

PRINCIPLES OF COOPERATION

LGSCO and OEP will:

- a. Respect each other's independent status and ability to make their own independent decisions.
- b. Secure openness and transparency between the two organisations in their dealings with each other and in how they exercise statutory powers requiring the release of information, subject to any legal restrictions.
- c. Secure collaborative working between the parties in areas where their functions overlap, to minimise conflicting or duplicative activities.

CONSULTATION AND AREAS OF COOPERATION

OEP and LGSCO may consult with each other before taking steps that may affect the other party, particularly if they discover that they are investigating the same or related incidents. The intention of such consultation will be to discuss what, if any, practical arrangements should be put in place so that both parties can fulfil their respective functions as fully, effectively, and efficiently as possible.

OEP and LGSCO will endeavour to signpost complainants to each other as necessary and will agree suggested wording for this where it happens in writing.

OEP and LGSCO will also share anonymised decisions, where appropriate, and complaints trends to aid one and other, helping to inform the actions they may individually take.

LIAISON MEETINGS

Representatives of LGSCO and OEP will meet as appropriate to consider matters of mutual interest arising from their respective functions.

Each party will ensure the other has been provided with an appropriate named contact or named role to liaise with as required to carry out day to day cooperation.

CONFIDENTIALITY

LGSCO and OEP will handle all information exchanged appropriately and in line with their respective privacy notices, in accordance with data protection legislation and the primary legislation that directs their work.

The participants do not intend that this Memorandum shall cover any sharing of personal data by the parties, except in cases where the data subject has given informed written consent for such sharing and will take account of each other's statutory responsibilities in relation to the disclosure of sensitive information.

Where either party receives a request for information under the Freedom of Information Act 2000, Environmental Information Regulations 2004 or the Data Protection Act 1998 or 2018, they will endeavour to consult with the other party before disclosing information that would affect the other party's responsibilities.

MONITORING AND REVIEWING THIS MEMORANDUM

Either party may suggest amendments to this Memorandum but the written approval of both will be required to make a change.

This Memorandum commences on the date set out at the top of page one. The Memorandum will be reviewed initially after 12 months and thereafter every two years or when changes to either party's legislation or directions are made. It will also be reviewed if the principles described above need to be altered and/or cease to be relevant for any other reason.

A copy of this Memorandum will be placed on the LGSCO and OEP websites.

KEY CONTACTS AND DISPUTE RESOLUTION

Details of key contacts will be maintained by LGSCO and OEP.

Where either party identifies problems or disputes in operating this Memorandum, it will seek to resolve them quickly and informally. The parties' representatives will discuss how best to resolve the issues at an appropriate level but if this is not possible then the Chief Executive of LGSCO and the Chief Executive of OEP will take responsibility for achieving a mutually acceptable resolution. Their decision will be final.

Signed on behalf of LGSCO:

A handwritten signature in black ink, appearing to read 'M. King', with a stylized flourish at the end.

Date: 16 September 2022

Name and job title: Michael King, Local Government and Social Care Ombudsman for England

Signed on behalf of the OEP:

A handwritten signature in black ink, appearing to read 'R. Greenhous', with a long horizontal flourish extending to the right.

Date: 15 September 2022

Name and job title: Richard Greenhous, Chief of Staff for the OEP