

# Governance and Audit Committee

Tuesday 13<sup>th</sup> October 2020

# Local Government and Social Care Ombudsman (LGSCO) Annual Review Letter 2019/20 Report

Report by: Ian Knowles

Chief Executive

Contact Officer: Natalie Kostiuk

**Customer Experience Officer** 

natalie.kostiuk@west-lindsey.gov.uk

Purpose / Summary: Report on the Local Government and Social Care

Ombudsman (formerly the LGSCO) Annual Review letter 2019/20 covering complaints referred to them between April 2019 and March 2020. Examining upheld complaints, learning actions and benchmarking with other authorities.

### **RECOMMENDATION(S):**

That committee members:

- 1) scrutinise the content of this report regarding the Local Government and Social Care Ombudsman Annual Review Letter and;
- 2) seek assurance that complaint handling procedures are functioning adequately.

### **IMPLICATIONS**

### Legal:

None arising directly from this report.

### Financial: FIN/73/21/SL

Members agreed via a report made to the Governance & Audit committee in July 2018 to delegate authority to award compensation up to a value of £2,500 to the Executive Director of Resources subject to consultation with the Chairman of the Governance and Audit Committee.

The LGSCO recommended one payment included in this report of £200 which was funded from existing overall resources.

### Staffing:

None arising directly from this report.

### **Equality and Diversity including Human Rights:**

By understanding, in more detail about how customers interact with the Council means we will be able to address issues that are preventing them from accessing services in an equal manner.

### **Data Protection Implications:**

None arising directly from this report.

### **Climate Related Risks and Opportunities:**

None arising directly from this report.

#### **Section 17 Crime and Disorder Considerations:**

None arising directly from this report.

### **Health Implications:**

None arising directly from this report.

Title and Location of any Backgrothis report :	ound P	apers	used in the pre	paratio	on of		
Link to the Local Government and Review Letter for West Lindsey Dist			Ombudsman W	/ebsite	Annual		
Annual LGSCO Review Letter - West Lindsey District Council							
Link to the Local Government and S Decisions for West Lindsey District			mbudsman Web	site C	omplaint		
West Lindsey District Council deci Ombudsman	sions -	Local	Government ar	nd Soc	ial Care		
Link to the Local Government and Performance for West Lindsey Distr			Ombudsman W	ebsite/	Overall		
West Lindsey District Council Perfo	rmance	<u>)</u>					
Risk Assessment :							
Not Applicable							
Call in and Urgency:							
Is the decision one which Rule 14	l.7 of th	ne Scr	utiny Procedure	Rule	s apply?		
i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)	Yes		No	X			
Key Decision:							
A matter which affects two or more wards, or has significant financial implications	Yes		No	X			

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### **Executive Summary**

This report examines the Local Government and Social Care Ombudsman (LGSCO) Annual Review Letter 2020 covering complaints that were either received or decided by them during the 2019/20 period ending on 31<sup>st</sup> March 2020.

The information within this report includes four decisions received between May and September 2019 for complaints that were initially referred to the LGSCO during the previous year (2018/19).

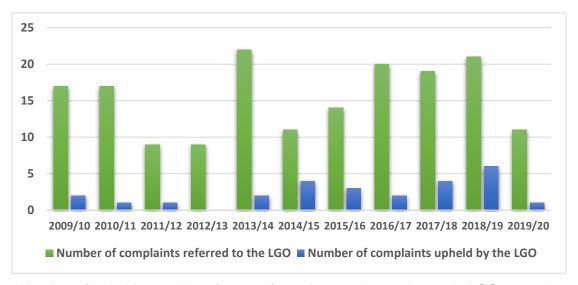
Historical data on complaints referred to the LGSCO is included along with comparison to last year's figures and findings.

Finally the report compares how West Lindsey District Council (WLDC) has performed overall nationally and in comparison to 20 other similar local authorities in terms of the number of complaints referred, investigated and upheld by the LGSCO.

### 1. Introduction

- 1.1 If a customer is dissatisfied with the outcome of their complaint or the way it has been handled by West Lindsey District Council they are entitled to refer their complaint to the LGSCO for an independent investigation.
- 1.2 The LGSCO will only investigate a complaint once it has been dealt with in full via the West Lindsey District Council Customer Experience Policy Complaints Process and only if it meets their criteria for investigation.
- 1.3 Certain issues that have another formal route of appeal or tribunal will not be investigated by the LGSCO.
- 1.4 There is no cost to the authority for work carried out by the LGSCO.
- 1.5 Each year the LGSCO publish an Annual Review letter for each authority which details the number of complaints referred to them, investigated by them and upheld by them. Information regarding compliance with LGSCO recommendations is also included. The full 2020 Annual Review Letter can be found in **Appendix 1** of this report.
- 1.6 The information published by the LGSCO allows each authority to examine how they compare to other similar councils.
- 1.7 LGSCO investigations and decisions on complaints allow us to learn and make improvements to the way we run our services and deal with customers on a daily basis. We can also learn from LGSCO complaints and decisions made for other authorities, when decisions are published they are shared with Team Managers.
- 1.8 The graph below illustrates how many WLDC complaints have been referred to and upheld by the LGSCO each year since 2009. As you can see there has

been a decrease overall during 2019/20 compared to previous years. This indicates that the complaints procedure and the investigations that take place have improved since the implementation of the new complaints process in January 2018 and the work carried out by the Customer Experience Officer.



\*Number of upheld complaints for 2012/13 unknown due to change in LGO procedures.

1.9 The LGSCO do not necessarily investigate all of the complaints that are referred to them. During the 2019/20 period 11 new complaints were referred to the LGSCO but only 5 of them were investigated. It should be noted that during the 2019/20 period four decisions were received which related to complaints that were referred to the LGSCO initially in 2018/19.

## 2. Annual Review Letter Figures

- 2.1 In total 11 new complaints were referred to the LGSCO in 2019/20, this is a lot lower when compared to previous years where an average of 20 complaints have been referred to them. The table below illustrates which services the complaints related to compared with the previous three years.
- 2.2 During 2019/20 the majority of complaints received were relating to Benefits and Tax and Planning and Development services. Historically the majority of complaints referred to the LGSCO have related to Planning and Development so there has been a significant decrease overall in complaints referred for Planning and Development during 2019/20.

	Benefits and Tax	Corporate and Other Services	Environment Services	Highways and Transport	Housing	Planning and Development	Total
2019/20	4	1	1	0	1	4	11
2018/19	4	1	3	0	1	11	20
2017/18	3	2	2	0	0	12	19
2016/17	3	1	4	1	2	9	20

- 2.3 In total 15 decisions were made by the LGSCO during the 2019/20 period, this figure includes four decisions made for complaints referred to the LGSCO the previous year (2018/19).
- 2.4 Of the complaints received 2 complaints were referred back to West Lindsey District Council for local resolution. This occurs when a customer has not initially made their complaint known to us or given us the chance to investigate and resolve their complaint in house. The LGSCO will only investigate complaints once they have been investigated via the authority under the Council's complaint process.
- 2.5 Of the complaints received 8 complaints were closed after initial enquiries. This occurs when the LGSCO receive a complaint and consider the initial information including details of the complaint. If the LGSCO decide that it is unlikely that any fault will be found or that any harm has occurred they will not investigate the matter further. The LGSCO will also take this approach to complaints where an appeal or tribunal route is available to the complainant.
- 2.6 In total 5 detailed investigations were carried out by the LGSCO. 3 in relation to Planning and Development, 1 in regards to Benefits and Tax and the other was regarding Environment Services.
- 2.7 Overall 4 of the complaints investigated by the LGSCO were not upheld. No fault on behalf of the council was identified.
- 2.8 Only 1 complaint was upheld by the LGSCO as fault was identified. This was a complaint that was initially referred to the LGSCO during the previous year in relation to Environment Services. None of the new complaints referred during 2019/20 were upheld.
- 2.9 The overall upheld rate for 2019/20 was 20% which is a decrease of 40% compared to the previous year where 6 out of 10 complaints were upheld (60%).
- 2.10 The table below shows how these figures compare to the previous three years.
- 2.11 The upheld rate of 20% is a decrease compared to previous years. This is lower than other similar authorities whose average upheld rate was 45%.

	2019/20	2018/19	2017/18	2016/17
Complaints and enquiries received by the LGSCO	11	20	20	19
Number of detailed investigations carried out by the LGSCO	5	10	10	11
Number of complaints upheld by the LGSCO	1	6	4	2

Upheld complaint percentage %	20%	60%	40%	18%
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2.12 The illustration below is taken from the LGSCO website 'Your council's performance' section.



## 3. Upheld Complaints

3.1 In total the LGSCO carried out detailed investigations for 5 complaints. Only 1 of these was upheld. The table below shows information on the complaints investigated, the upheld complaint and the remedy that was recommended by the LGSCO. The received and decided dates illustrate the length of time it took the LGSCO to investigate the complaints.

Reference	Category	Received by the LGSCO	Decided	Decision	Decision Reason	Remedy
18013407	Environmental Services	29/11/2018	03/05/2019	Upheld	Maladministration and Injustice	Financial redress: Avoidable distress/time and trouble, Provide services
18017525	Planning & Development	11/04/2018	06/09/2019	Not Upheld	No Maladministration	N/A
19000654	Planning & Development	11/04/2019	18/09/2019	Not Upheld	No Maladministration	N/A
19007901	Planning & Development	09/08/2019	02/01/2020	Not Upheld	No Maladministration	N/A
19009607	Housing	09/09/2019	28/01/2020	Not Upheld	Other agency better placed	N/A

- 3.2 The details below include the history and findings of the 5 complaints that were investigated including the complaint that was upheld.
- 3.3 18013407 Environmental Services (Upheld) Maladministration and Injustice Remedy: Financial redress: Avoidable distress/time & trouble, Provide services Referred to the LGSCO: 29/11/2018, Decision received: 03/05/2019

This case was regarding a noise complaint which had been investigated by the Environmental Protection team. It was alleged that a nearby business had installed fans which were not in line with the planning permission granted, the complainant felt that enforcement action should have been taken and was also dissatisfied at the quality of the noise assessment that had been carried out.

The LGSCO found no fault with the fact that enforcement action had not been taken stating that:

"Councils may take enforcement action where there has been a breach of planning control. Enforcement action is discretionary. The government's current guidance on planning enforcement is set out in the National Planning Policy Framework (NPPF, 2018). This says Councils should act proportionately in responding to suspected breaches of planning control and take action when it is expedient to do so."

However the LGSCO did identify fault with the quality of the noise assessment that was carried out and the delays in it taking place.

The LGSCO concluded that there was fault because the Council delayed carrying out the noise assessment of the fans. The LGSCO upheld the complaint stating that the Council was at fault for not properly assessing the noise levels caused by the fans.

The LGSCO made the following recommendations which were completed in a satisfactory timeframe:

- The Council will carry out a full BS 4142 noise assessment. This will be undertaken once the average outside temperature in the village is above 20 degrees Celsius.
- Within 4 weeks of my final decision, the Council will pay the complainant £200 for the time and trouble taken to make this complaint.

# 3.4 18017525 Planning and Development (Not Upheld) Referred to the LGSCO: 11/04/2018, Decision received: 06/09/2019

This complaint was regarding the claim that that the Council failed to notify the complainants of their neighbour's planning application for a rear extension which included a chimney. They also complained that the Council did not properly consider the impact on their amenity and living conditions when granting the original planning permission and permission to amend the plans.

The Ombudsman found no fault in the way the Council notified the complainants or in the way the applications were considered. The LGSCO stated that they cannot therefore question the merits of the Council's decisions to grant planning permission.

The LGSCO closed the investigation into this complaint because they found no fault in the way the Council considered their neighbour's planning applications. The complaint was not upheld.

# 3.5 19000654 Planning and Development (Not Upheld) Referred to the LGSCO: 11/04/2019, Decision received: 18/09/2019

This complainant claimed that the Council had granted planning permission for an extension at a neighbouring property based on inaccurate plans. The complainant states the actual relationship between her property and her neighbour's impacts negatively on her privacy. The LGSCO concluded that there was no evidence of fault in the way the Council considered the neighbour's planning application.

The LGSCO did not upheld this complaint as there is no evidence of fault in the way the Council considered the complainants neighbour's planning application.

## 3.6 19007901 Planning and Development (Not Upheld) Referred to the LGSCO: 09/08/2019, Decision received: 02/01/2020

This case was regarding a complaint where the complainants were unhappy about the Council's decision to approve their neighbour's planning application, which they say will reduce light and privacy in their home. The LGSCO concluded there was no fault in the way the Council made its decision.

The LGSCO completed their investigation as there was no fault in the way the Council made its decision and the complaint was not upheld.

## 3.7 19009607 Housing (Not Upheld) Referred to the LGSCO: 09/09/2019, Decision received: 28/01/2020

This complainant was not happy that the Council asked her to accept a criminal caution for not complying with the conditions of an Abatement Notice the Council issued under the Environmental Protection Act 1990. The LGSCO discontinued their investigation after making initial enquiries because the complainant had a right of appeal against conditions of the notice and legal proceedings remained ongoing.

The complaint was not upheld and the LGSCO discontinued the investigation because the complainant had a right of appeal against conditions of the Abatement Notice and legal proceedings remained ongoing.

### 4. Compliance with Ombudsman Recommendations

- 4.1 The LGSCO produce and report statistics on compliance with the recommendations they make in relation to upheld complaints. The LGSCO's recommendations are specific and often include a timeframe for completion, allowing them to follow up with authorities and seek evidence that the recommendations have been implemented.
- 4.2 West Lindsey District Council received a 100% score for compliance with LGSCO recommendations for the 2019/20 period. This compliance score is included within the Annual Review letter 2020 in Appendix 1.

### 5. Learning from LGSCO Complaint Investigations

- 5.1 In comparison to the previous year and the extensive learning and improvements that took place during that time there have been fewer learning opportunities available in 2019/20 as there has only been one upheld complaint where recommendations have been made.
- 5.2 Following a rise in the number of complaints which are not upheld because the complainant has another route of appeal or tribunal available to them the complaints process has been updated to make it clear that where another formal route is available the complainant should follow that rather than making a formal complaint direct to the council.
- 5.3 When the recommendations for the upheld complaint were received the Environmental Protection team were briefed on the complaint, the LGSCO's findings and the recommendations made. The process for noise assessments has been updated and more consideration will be made in the future as to the most appropriate level of noise assessment that needs to take place depending on the circumstances.

## 6. Comparison with other Local Authorities Nationally

- 6.1 The LGSCO deals with complaints for 371 local authorities in total.
- 6.2 West Lindsey District Council is number 278/371 overall in terms of the number of complaints referred to the LGSCO for each authority, the highest being 561 complaints referred for Birmingham City Council.
- 6.3 In terms of the number of upheld complaints West Lindsey District Council is number 299/371 overall. Birmingham City Council had the highest number of upheld complaints with 542 complaints being upheld by the LGSCO.
- 6.4 West Lindsey District Council is number 298/371 overall in terms of upheld complaint percentage.

6.5 Compared to the previous period (2018/19) West Lindsey District Council has improved in all the areas mentioned above and the numbers have reduced.

## 7. How we compare with other similar Local Authorities

- 7.1 A list of 20 local authorities that are similar to West Lindsey District Council in terms of size, population and services provided has been compiled so that some meaningful benchmarking and comparison can take place.
- 7.2 The tables in **Appendix 2** of this report show how WLDC compares to the other 20 similar local authorities.
- 7.3 In terms of the number of complaints referred to the LGSCO West Lindsey District Council is number 15/21 compared to similar local authorities.
- 7.4 West Lindsey District Council is number 17/21 in terms of upheld complaint percentage when compared to similar local authorities.
- 7.5 Compared to the previous period (2018/19) West Lindsey District Council has improved in all the areas mentioned above and the numbers have reduced.

### **Appendix 1- LGSCO Annual Review Letter 2020**

22 July 2020

By email

Mr Knowles
Executive Director of Resources
West Lindsey District Council

Dear Mr Knowles



### **Annual Review letter 2020**

I write to you with our annual summary of statistics on the decisions made by the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2020. Given the exceptional pressures under which local authorities have been working over recent months, I thought carefully about whether it was still appropriate to send you this annual update. However, now, more than ever, I believe that it is essential that the public experience of local services is at the heart of our thinking. So, I hope that this feedback, which provides unique insight into the lived experience of your Council's services, will be useful as you continue to deal with the current situation and plan for the future.

#### **Complaint statistics**

This year, we continue to place our focus on the outcomes of complaints and what can be learned from them. We want to provide you with the most insightful information we can and have made several changes over recent years to improve the data we capture and report. We focus our statistics on these three key areas:

**Complaints upheld** - We uphold complaints when we find some form of fault in an authority's actions, including where the authority accepted fault before we investigated. A focus on how often things go wrong, rather than simple volumes of complaints provides a clearer indicator of performance.

**Compliance with recommendations** - We recommend ways for authorities to put things right when faults have caused injustice. Our recommendations try to put people back in the position they were before the fault and we monitor authorities to ensure they comply with our recommendations. Failure to comply with our recommendations is rare. An authority with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

**Satisfactory remedies provided by the authority** - We want to encourage the early resolution of complaints and to credit authorities that have a positive and open approach to resolving complaints. We recognise cases where an authority has taken steps to put things right before the complaint came to us. The authority upheld the complaint and we agreed with how it offered to put things right.

Finally, we compare the three key annual statistics for your authority with similar types of authorities to work out an average level of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

This data will be uploaded to our interactive map, <u>Your council's performance</u>, along with a copy of this letter on 29 July 2020, and our Review of Local Government Complaints. For further information on how to interpret our statistics, please visit our website.

### Resources to help you get it right

There are a range of resources available that can support you to place the learning from complaints, about your authority and others, at the heart of your system of corporate governance. Your council's performance launched last year and puts our data and information about councils in one place. Again, the emphasis is on learning, not numbers. You can find the decisions we have made, public reports we have issued, and the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

I would encourage you to share the tool with colleagues and elected members; the information can provide valuable insights into service areas, early warning signs of problems and is a key source of information for governance, audit, risk and scrutiny functions.

Earlier this year, we held our link officer seminars in London, Bristol, Leeds and Birmingham. Attended by 178 delegates from 143 local authorities, we focused on maximising the impact of complaints, making sure the right person is involved with complaints at the right time, and how to overcome common challenges.

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. During the year, we delivered 118 courses, training more than 1,400 people. This is 47 more courses than we delivered last year and included more training to adult social care providers than ever before. To find out more visit <a href="https://www.LGSCO.org.uk/training">www.LGSCO.org.uk/training</a>.

Yours sincerely.

Michael King

Local Government and Social Care Ombudsman Chair, Commission for Local Administration in England West Lindsey District Council

For the period ending: 31/03/20



This compares to an average of 45% in similar authorities. 1 upheld decision

Statistics are based on a total of 5 detailed investigations for the period between 1 April 2019 to 31 March 2020

### Compliance with Ombudsman recommendations

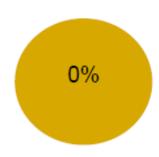


In 100% of cases we were satisfied the authority had successfully implemented our recommendations.

This compares to an average of 99% in similar authorities. Statistics are based on a total of 1 compliance outcome for the period between 1 April 2019 to 31 March 2020

 Failure to comply with our recommendations is rare. An authority with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

#### Satisfactory remedies provided by the authority



In 0% of upheld cases we found the authority had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of 20% in similar authorities. 0

satisfactory remedy decisions

Statistics are based on a total of 5 detailed investigations for the period between 1 April 2019 to 31 March 2020

## Appendix 2- Comparison with 20 similar local authorities – Complaints Received

Local Government & Social Care OMBUDSMAN	Adult Social Care	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environmental Services, Public Protection and Regulation	Highways and Transport	Housing	Planning and Development	Other	Total
Complaints Received										
East Lindsey District Council	0	1	4	0	8	1	3	12	0	29
Torridge District Council	0	0	1	0	3	1	4	14	1	24
Allerdale Borough Council	0	1	3	0	9	0	4	5	0	22
North Devon District Council	0	4	3	0	5	0	1	5	0	18
South Hams District Council	0	2	1	0	2	0	0	12	0	17
South Somerset District Council	0	4	1	0	2	3	0	7	0	17
Selby District Council	1	2	2	0	3	0	1	7	0	16
Daventry District Council	0	4	2	0	2	1	3	3	0	15
Hambleton District Council	0	0	3	0	0	0	0	10	0	13
Mid Devon District Council	0	1	2	0	1	1	2	6	0	13
Mid Suffolk District Council	0	1	5	0	1	1	1	4	0	13
South Holland District Council	0	2	1	0	1	0	2	7	0	13
King's Lynn & West Norfolk Council	0	4	0	0	0	2	0	6	0	12
Derbyshire Dales District Council	0	2	2	0	4	1	0	2	0	11
West Lindsey District Council	0	4	1	0	1	0	1	4	0	11
North Kesteven District Council	0	1	0	0	1	0	1	7	0	10
Babergh District Council	0	0	2	0	1	0	3	2	0	8
Breckland District Council	0	2	1	0	0	0	1	4	0	8
Cotswold District Council	0	0	1	0	0	0	1	4	0	6
Copeland Borough Council	0	0	2	0	0	0	0	2	0	4
West Dorset District Council	0	0	0	0	0	1	0	0	0	1

#### Notes

These statistics include all complaints and enquiries that were received from 01 April 2019 to 31 March 2020.

Some cases are received and decided in different business years. This means the number of complaints and enquiries received may not match the number of decisions made.

You can find comparisons with last year's data on the second tab of this workbook.

For more information on how to interpret our stati: please visit:

https://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics

## Appendix 2 continued- Comparison with 20 similar local authorities – Complaints Decided

Local Government & Social Care OMBUDSMAN	Invalid or Incomplete	Advice Given	Referred Back for Local Resolution	Closed after Initial Enquiries	Not Upheld	Upheld	Total	Uphold Rate (%)	Average uphold rate (%) of similar authorities
Complaints and Enquiries Decided (by 0	Outcome) 2019-2	20							
North Kesteven District Council	0	0	0	6	0	4	10	100	45
Mid Suffolk District Council	1	1	2	6	0	3	13	100	45
South Holland District Council	0	1	1	8	0	1	11	100	45
Derbyshire County Council	9	2	47	40	5	19	122	79	66
South Hams District Council	1	0	2	7	1	2	13	67	45
North Devon District Council	0	0	1	14	2	3	20	60	45
Selby District Council	1	2	4	7	2	3	19	60	45
Daventry District Council	0	0	5	7	5	5	22	50	45
South Somerset District Council	1	0	6	8	2	2	19	50	45
Breckland District Council	0	0	1	5	1	1	8	50	45
Cotswold District Council	0	0	1	3	2	1	7	33	45
Mid Devon District Council	0	0	4	4	2	1	11	33	45
West Dorset District Council	0	0	0	1	2	1	4	33	45
Babergh District Council	1	2	1	2	5	2	13	29	45
East Lindsey District Council	0	0	13	7	5	2	27	29	45
Allerdale Borough Council	0	2	7	9	3	1	22	25	45
West Lindsey District Council	0	0	2	8	4	1	15	20	45
Torridge District Council	2	0	2	6	16	2	28	11	45
Copeland Borough Council	0	0	0	6	1	0	7	0	45
Hambleton District Council	0	0	3	7	5	0	15	0	45
King's Lynn & West Norfolk Council	0	0	3	5	2	0	10	0	45

#### Notes

These statistics include all complaints and enquiries that were decided from 01 April 2019 to 31 March 2020.

Some cases are received and decided in different business years. This means the number of complaints and enquiries received may not match the number of decisions made.

You can find comparisons with last year's data on the second and third tabs of this workbook.

For more information on how to interpret our statistics: <a href="http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics">http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics</a>