

24 June 2011

Ms K Kerswell
Managing Director
Kent County Council
County Hall
Maidstone ME14 1XQ

Dear Ms Kerswell

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ending 31 March 2011. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number that the Advice Team forwarded to my office and decisions made on complaints about your council. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your authority to respond to written enquiries and the average response times by type of authority. I have decided to add a commentary to the attached statistics in view of the number and range of complaints against your Council that my office dealt with in the year which have predominantly been about Adult Care Services, Children's Services, and Education. I also wanted to provide you with some information on the schools complaints service which commenced in Kent in September 2010.

Enquiries and complaints received

Our Advice Team received 194 enquiries about your Council in 2010/11. We dealt with 44 of these enquiries through the provision of advice. A further 21 were passed back to the Council with a request that they were considered further because the corporate complaints procedure had yet to be exhausted, and it seemed that the complainants would not be disadvantaged by doing so. They were told they could resubmit their complaint to the Ombudsman if they were dissatisfied with the outcome of their complaint after it had been considered further by the Council. The remaining 129 enquiries were treated as complaints and so were forwarded to an investigation team.

Complaint outcomes

Of the 111 decisions I made in the year, nine were outside my jurisdiction. In 47 cases I found no fault, and in 24 cases I exercised my discretion not to pursue the complaint, often because I felt the claimed injustice was insufficient to justify an investigation. Although I issued no reports against your Council in the year, I did agree 29 local settlements.

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2010/11, 27.1% of all complaints the Ombudsmen decided and which were in our jurisdiction were local settlements. The comparative figure for your authority just exceeded this at 28.8%. All except one of the local settlements we secured for Kent complainants this year related to complaints about three services: Adult Care Services, Children's Services, and Education. The majority of the settlements about Education related to fault in admissions arrangements to schools or in the hearing of appeals in respect of non-admission to a particular school. I will say more about this later.

Local settlements may be obtained in many different ways. Sometimes the payment of compensation is appropriate. In 2010/11 your Council paid compensation of £8,625 in total. But often there is more to a local settlement than just the payment of money. Here are some examples of the settlements obtained during the year.

Adult care services

We settled one complaint about the extent to which Council had responded appropriately to the complainant's concerns about the safety and wellbeing of her elderly mother who was known to its Psychiatric Services. A number of failings were identified in the way in which the Council had responded to the concerns, and the conclusion was reached that it had failed in its responsibilities to the complainant's mother. It set in train a number of actions to improve its procedures in future.

In another complaint I asked the Council to provide £1,900 in compensation for its failure to provide community care services to a complainant who had been assessed as eligible to receive such services.

I also dealt with a complaint where the complainant did not receive the level of customer service which he was entitled to expect following the death of his stepfather when he attempted to obtain some clarification on the outstanding care home fees that were owed. The Council accepted that he should not have had to deal with so many of its officers over what ought to have been a simple matter. Although the Council responded promptly to most of the contact from the complainant, it was slow to recognise his legitimate concern that he may have been invoiced for money he had already paid. The Council should have recognised that the complainant was entitled to an apology and an explanation of what had gone wrong. The Council agreed to reduce the outstanding debt by £150 and to send an apology.

Education

I settled two complaints last year in respect of the Council's failure to provide suitable education for children of statutory school age. One had been excluded from school and should have been receiving suitable full time education from the sixth day of his exclusion. Although the child received some home tuition and arrangements were put in place to enable exams to be taken, my Investigator concluded that this was far from adequate. The second case involved a child who relied on a motorised wheelchair for mobility. As he had got older he had outgrown his wheelchair but the larger one he was provided with was unsuitable for his home until such time as adaptations had been undertaken. He effectively became housebound for a six month period during which time no education was provided.

Thirty five separate complaints about school admissions raised questions about the quality and independence of the appeal process when the Council provides and services Independent Appeal Panels - both for itself and for schools that are admission authorities. In some appeals the Clerk's notes were inadequate. I found a number of instances where an appeal panel had decided to send a particular standard decision letter only for Council officers to send a different one. Some decision letters did not include major points documented in the clerks' notes. The practice of Council officers finalising and sending appeal decision letters with the clerks' facsimile signatures breaches the statutory Code.

One of the school admission complaints involved a selection test that had been disrupted and the invigilators making mistakes about timing. The Council said it would not arrange for the children affected to sit an alternative test. It said that the parents could appeal to an Independent Appeal Panel. Primary schools can ask for a panel of head teachers to review the cases of children who are expected to pass but do not. Children who pass but achieve a lower score than expected cannot be referred to the panel of head teachers. As a result, a child who passes but has underperformed because of disruption and/or mistakes by the Council's invigilators could miss out on a 'super selective' place (i.e. one of the places that some schools reserve for a specified number of children scoring the highest marks who would not otherwise get a place, for example because of the distance between their home and school).

Liaison with the Local Government Ombudsman

My investigators made initial enquiries on 83 complaints this year. On average it took 31.5 days for the Council to reply. These times fall short of my requested timescale of 28 days.

Whilst my Investigators have noted some reluctance to agree to proposed settlements, they have also noted examples where the Council has been pro-active in proposing them on cases under investigation. I also note that two of your Officers attended a seminar I held in our London Office in December, which I hope they found useful.

Communicating decisions

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. My next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further transparency to our work.

Extended powers

During 2010/11 our powers were extended to deal with complaints in two significant areas. In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. Anyone who arranges and pays for their own social care now has the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 89 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

As you are aware, schools in Kent have been subject our new powers since September 2010. I would like to thank Kent County Council for its support during this period in facilitating the delivery of training across the county to Head Teachers, Governors and Clerks about the new legislation, and more recently in supporting schools to develop accessible and fair complaints handling procedures. We have delivered eight courses in total to over 200 delegates with an overwhelmingly positive response.

I had received 64 complaints about schools in your area by the end of March 2011. These covered a broad range of issues including how schools had dealt with allegations of bullying, the provision of additional support for those children with special educational needs, how schools had dealt with medical issues, complaints about staff conduct, the way in which policies on school uniforms had been applied, exclusions from school, school trips, and the barring of parents from school premises.

Of the 57 complaints decided in your area:

- In 16 cases we initiated an investigation;
- In 39 cases the complaint was referred back to the school for it to consider using its own complaint procedure as it had not yet had the opportunity to do so before the complaint was made to me; and
- In 2 cases we were unable to consider the complaint as it was either not made by a qualifying person or was about a matter I am prevented from considering by law.

In terms of the 16 of cases where we initiated an investigation:

- A satisfactory resolution was reached between the parties in eight cases following the Ombudsman's involvement and so the investigation was discontinued.
- We secured a remedy and / or agreement for action to prevent similar problems recurring in six of the cases.
- In two we found that there was no fault in the actions of the school or there was no substance to the complaint.

Decisions in the 14 areas can be broken down as follows:

- In 47% of cases we initiated an investigation.
- In 48% of cases the complaint was referred back to the school for it to consider using its own procedures as it had not had the opportunity to do so.
- In 5% of cases we were unable to consider the complaint as it was not within our jurisdiction.

In terms of the 47% of cases where we initiated an investigation:

- A satisfactory resolution was reached between the parties in 25% of cases following the Ombudsman's involvement (and the investigation was discontinued).
- We secured a remedy and/or agreement for action to prevent similar problems recurring in 13% of the cases.
- In 9% we found that there was no fault in the actions of the school or there was no substance to the complaint.

Our new powers coincided with the introduction of Treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

Assisting councils to improve

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. We provided a one day training course on Effective Complaint Handling for officers in your authority on 11 March 2011. I hope this course was timely in the context of the roll-out of your new complaint handling arrangements in April 2011.

During 2010/2011 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.

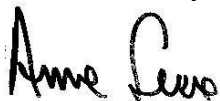
These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

Details of training opportunities are on our web site at www.lgo.org.uk/training-councils/

More details of our work over the year will be included in the 2010/11 Annual Report. This will be published on our website at the same time as the annual review letters for all councils (14 July).

If it would be helpful to your Council I should be pleased to arrange for me or a senior manager to meet and explain our work in greater detail.

Yours sincerely

A handwritten signature in black ink that reads "Anne Seex". The signature is written in a cursive style with a large initial 'A'.

Anne Seex
Local Government Ombudsman

For further information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Other	Planning & Development	Total
Formal/informal premature complaints	4	0	0	10	1	5	0	1	0	21
Advice given	9	1	1	28	0	3	1	1	0	44
Forwarded in investigative team (resubmitted)	2	0	0	3	0	0	0	0	1	6
Forwarded to investigative team (new)	35	0	3	66	3	12	0	4	0	123
Total	50	1	4	107	4	20	1	6	1	194

Investigative Team

Decisions	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
2010 / 2011	0	28	0	0	47	20	9	106

Adult social care decisions made from 1 Oct 2010*

	Not to initiate an investigation	To discontinue investigation, injustice remedied	To discontinue investigation, other	Total
2010 - 2011	3	1	1	5

*These decisions are not included in the main decisions table above. They use the new decision reasons from 1/10/10.

Provisional comparative response times 01/04/2010 to 31/03/20 11

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	79	31.6
2009 / 2010	75	31.6
2008 / 2009	69	38.1

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	65	23	12
Unitary authorities	59	28	13
Metropolitan authorities	64	19	17
County councils	66	17	17
London boroughs	64	30	6
National parks authorities	75	25	0

Response times adult social care 1/10/10 - 31/3/11

Response times adult social care 1/10/10 - 31/3/11	First enquiries	
	No of first Enquiries	Avg no of days to respond
2010/2011	4	30.0