

Local Government & Social Care OMBUDSMAN

24 July 2019

By email

Kate Kennally
Chief Executive
Cornwall Council

Dear Ms Kennally

Annual Review letter 2019

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2019. The enclosed tables present the number of complaints and enquiries received about your authority, the decisions we made, and your authority's compliance with recommendations during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

Complaint statistics

As ever, I would stress that the number of complaints, taken alone, is not necessarily a reliable indicator of an authority's performance. The volume of complaints should be considered alongside the uphold rate (how often we found fault when we investigated a complaint), and alongside statistics that indicate your authority's willingness to accept fault and put things right when they go wrong. We also provide a figure for the number of cases where your authority provided a satisfactory remedy before the complaint reached us, and new statistics about your authority's compliance with recommendations we have made; both of which offer a more comprehensive and insightful view of your authority's approach to complaint handling.

The new statistics on compliance are the result of a series of changes we have made to how we make and monitor our recommendations to remedy the fault we find. Our recommendations are specific and often include a time-frame for completion, allowing us to follow up with authorities and seek evidence that recommendations have been implemented. These changes mean we can provide these new statistics about your authority's compliance with our recommendations.

I want to emphasise the statistics in this letter reflect the data we hold and may not necessarily align with the data your authority holds. For example, our numbers include

enquiries from people we signpost back to your authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside our annual review of local government complaints. For the first time, this includes data on authorities' compliance with our recommendations. This collated data further aids the scrutiny of local services and we encourage you to share learning from the report, which highlights key cases we have investigated during the year.

This year, we issued four public reports about your Council. In a particularly serious case, we found the Council left a vulnerable, homeless 17-year-old in a tent and then a static caravan for several weeks without properly assessing if he could make decisions about his own safety, and despite knowing of his drug use and poor mental health. This placed him at multiple risks of harm.

I was pleased that the Council eventually agreed to pay him a total of £2,500, plus £1,500 to his mother, who brought the complaint on his behalf. I also welcome the improvements the Council has since made to its policies and procedures for accommodating homeless 16 and 17-year-olds, which now take account of the fact that it is not always safe to comply with the accommodation preferences of some young people. You also agreed to draw up an action plan to make sure that there is sufficient accommodation available for homeless young people in Cornwall and to train staff to make sure they are aware that tents, static caravans and bed and breakfast accommodation are never suitable for homeless 16 and 17 year-olds.

I was concerned, however, that the Council's approach to the investigation was generally un-cooperative. It had previously required our intervention for the Council to consider the complaint by the complainant's mother. When she returned to us, the Council delayed responding to our enquiries, declining at first to supply documents we asked for on the grounds we did not have the complainant's consent to share them with his mother. We had to threaten to issue a witness summons in order to receive them.

It was unacceptable that the Council later attempted to get my investigator to sign a confidentiality agreement before being permitted to inspect files at your offices. We take the view that you should be aware of the provision of the Local Government Act 1974 that permits my investigators, acting under delegated powers, to examine evidence and witnesses.

The Council was also reluctant to accept fault. For example, after receiving our draft report, the Council wrote to us to say that routine use of bed and breakfast accommodation for homeless 16 and 17 year-olds had not happened in Cornwall, despite it being clear from your own files and the accounts of Council officers at interview this was not the case. I note the Council has since confirmed to the local media that it has placed young people in bed and breakfast accommodation 18 times since 2016.

We welcome reports that the Council will now invest in providing suitable accommodation for homeless 16 and 17-year-olds and families with children, and hope this will help address the issues we found in this investigation.

In another public report, we found the Council had failed to provide education and support to an autistic boy in its area. We found that the Council had applied too high a threshold when

deciding whether to assess the boy's special educational needs and that departments within the Council had failed to communicate and work together when the boy was not receiving a full-time education.

We found the boy had missed out on proper education and support for 12 months. We recommended the Council pay the family a financial remedy to recognise the impact this had on them as well as a further financial remedy to fund additional activities for the boy outside of school.

We also recommended the Council produce guidance for its education and children's services departments regarding information sharing responsibilities and amend its guidance on children eligible for an Education, Health and Care Plan to bring it in line with relevant legislation and guidance. I am pleased to note the Council has agreed to carry out these recommendations and is now due to report back on the service improvements it has made.

It was concerning that during our investigation the Council repeatedly insisted that it was not aware that the boy was not receiving a full-time education until November 2016. However, the Council's children's services department, as well as an educational psychologist and autism adviser working for the Council, were aware of the situation from as early as October 2015. We do not believe it was the Council's intention to mislead my office in this case, but it is important that the Council ensures it responds properly to our enquiries and consults with all departments and teams who may have been involved.

In another public report, I found there was significant delay in the Council making the necessary arrangements to transfer a young man's Statement of Special Educational Needs to an Education, Health and Care Plan (EHCP). I asked the Council to apologise and make a payment to the family for the distress and frustration the delay had caused. I also welcome the Council's commitment to audit compliance with the time frames involved in the EHCP process and ensure action was taken on any case where delay had occurred.

The final public report I issued related to the Council taking more than a decade to decide an application to register a village green. In this case, we found the applicant was put to significant time and trouble in pursuing the matter. It was also highly regrettable that several members of his local group had passed away before the application was determined. Following our report, I am pleased to note the Council has decided to hold a full public inquiry into the application, which I understand will commence this autumn.

Again, I was concerned to find the Council delayed in responding to our enquiries and requests for information throughout this investigation, which meant we had to threaten to issue witness summons on several occasions.

In addition to these public reports, there were multiple instances during the year where the Council either delayed in responding to our enquiries and draft findings or failed to provide full responses. These delays can add to complainants' distress, particularly when they have already had to navigate a time-consuming complaints process. I would encourage the Council to reflect on these issues over the coming year and look at ways to improve its interactions with our office so that we can work together in providing an efficient and effective complaints service to the public.

New interactive data map

In recent years we have been taking steps to move away from a simplistic focus on complaint volumes and instead focus on the lessons learned and the wider improvements we can achieve through our recommendations to improve services for the many. Our ambition is outlined in our [corporate strategy 2018-21](#) and commits us to publishing the outcomes of our investigations and the occasions our recommendations result in improvements for local services.

The result of this work is the launch of an interactive map of council performance on our website later this month. [Your Council's Performance](#) shows annual performance data for all councils in England, with links to our published decision statements, public interest reports, annual letters and information about service improvements that have been agreed by each council. It also highlights those instances where your authority offered a suitable remedy to resolve a complaint before the matter came to us, and your authority's compliance with the recommendations we have made to remedy complaints.

The intention of this new tool is to place a focus on your authority's compliance with investigations. It is a useful snapshot of the service improvement recommendations your authority has agreed to. It also highlights the wider outcomes of our investigations to the public, advocacy and advice organisations, and others who have a role in holding local councils to account.

I hope you, and colleagues, find the map a useful addition to the data we publish. We are the first UK public sector ombudsman scheme to provide compliance data in such a way and believe the launch of this innovative work will lead to improved scrutiny of councils as well as providing increased recognition to the improvements councils have agreed to make following our interventions.

Complaint handling training

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2018-19 we delivered 71 courses, training more than 900 people, including our first 'open courses' in Effective Complaint Handling for local authorities. Due to their popularity we are running six more open courses for local authorities in 2019-20, in York, Manchester, Coventry and London. To find out more visit www.lgo.org.uk/training.

We were pleased to deliver two complaint handling courses to your staff during the year, including a children's social care course. I welcome your Council's investment in good complaint handling training and trust the courses were useful to you.

Finally, I am conscious of the resource pressures that many authorities are working within, and which are often the context for the problems that we investigate. In response to that situation we have published a significant piece of research this year looking at some of the common issues we are finding as a result of change and budget constraints. Called, [Under Pressure](#), this report provides a contribution to the debate about how local government can navigate the unprecedented changes affecting the sector. I commend this to you, along with our revised guidance on [Good Administrative Practice](#). I hope that together these are a timely reminder of the value of getting the basics right at a time of great change.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MK' followed by a stylized flourish.

Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Local Authority Report: Cornwall Council
For the Period Ending: 31/03/2019

For further information on how to interpret our statistics, please visit our [website](#)

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
41	17	15	47	12	10	8	49	5	204

Decisions made

				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate (%)	Total
22	1	52	60	34	38	53	207
Note: The uphold rate shows how often we found evidence of fault. It is expressed as a percentage of the total number of detailed investigations we completed.							

Satisfactory remedy provided by authority

Upheld cases where the authority had provided a satisfactory remedy before the complaint reached the Ombudsman	% of upheld cases
1	3
Note: These are the cases in which we decided that, while the authority did get things wrong, it offered a satisfactory way to resolve it before the complaint came to us.	

Compliance with Ombudsman recommendations

Complaints where compliance with the recommended remedy was recorded during the year*	Complaints where the authority complied with our recommendations on-time	Complaints where the authority complied with our recommendations late	Complaints where the authority has not complied with our recommendations	
29	25	4	0	Number
	100%		-	Compliance rate**
Notes: * This is the number of complaints where we have recorded a response (or failure to respond) to our recommendation for a remedy during the reporting year. This includes complaints that may have been decided in the preceding year but where the data for compliance falls within the current reporting year. ** The compliance rate is based on the number of complaints where the authority has provided evidence of their compliance with our recommendations to remedy a fault. This includes instances where an authority has accepted and implemented our recommendation but provided late evidence of that.				