

# Local Government & Social Care OMBUDSMAN

21 July 2021

*By email*

Ms Kennally  
Chief Executive  
Cornwall Council

Dear Ms Kennally

## **Annual Review letter 2021**

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 2021. At the end of a challenging year, we maintain that good public administration is more important than ever and I hope this feedback provides you with both the opportunity to reflect on your Council's performance and plan for the future.

You will be aware that, at the end of March 2020 we took the unprecedented step of temporarily stopping our casework, in the wider public interest, to allow authorities to concentrate efforts on vital frontline services during the first wave of the Covid-19 outbreak. We restarted casework in late June 2020, after a three month pause.

We listened to your feedback and decided it was unnecessary to pause our casework again during further waves of the pandemic. Instead, we have encouraged authorities to talk to us on an individual basis about difficulties responding to any stage of an investigation, including implementing our recommendations. We continue this approach and urge you to maintain clear communication with us.

## **Complaint statistics**

This year, we continue to 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 focused statistics on 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.

**Compliance with recommendations** - We recommend ways for authorities to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

**Satisfactory remedy provided by the authority** - In these cases, the authority upheld the complaint and we agreed with how it offered to put things right. We encourage the early resolution of complaints and credit authorities that accept fault and find appropriate ways 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.

Your annual data will be uploaded to our interactive map, [Your council's performance](#), along with a copy of this letter on 28 July 2021. This useful tool places all our data and information about councils in one place. You can find the decisions we have made about your Council, 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 resource 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.

As you would expect, data has been impacted by the pause to casework in the first quarter of the year. This should be considered when making comparisons with previous year's data.

This year, I issued three public reports about your Council. In the first of these, we found the Council at fault for leaving a woman without the support she needed after the Council told her she could not use her direct payments to pay her daughter to care for her. The Council failed to put any alternative care in place, so the daughter felt she had no choice but to provide significant unpaid care for her mother. This meant she was unable to find paid work and left her without enough breaks to have her own social life or regular time off. Our investigation found the Council was at fault for stopping the mother's direct payments without carrying out a needs and carer assessment or identifying an agency that could take over the care provided by the daughter.

We asked the Council to apologise to the woman and her daughter and pay the daughter an amount equivalent to that which she would have received had the Council continued to pay her for the care she provided. It also agreed to review the mother's circumstances and decide if it should allow her a direct payment to pay her daughter to arrange care and make a payment to the mother and daughter for the distress they have suffered.

Throughout the investigation, there were delays by the Council in providing responses to our enquiries, comments on our draft decision and clarifying if it had agreed to implement the recommendations set out in our report. However, I am pleased to note it has now provided evidence of compliance with the recommendations, enabling me to confirm satisfaction with the actions taken.

In the second report, we found the Council failed to arrange education for a child who could not attend school for health reasons. A father complained that his son, who was ill, had been without education for four months. The Council has outsourced its duties to arrange alternative education for these children and our investigation found the Council did not have sufficient oversight of the arrangements to react when things went wrong. The Council could not provide evidence the boy's needs were assessed or alternative education offered. I am pleased the Council accepted our findings and recommendations; it made a payment for the boy's missed education and agreed to

review its policies and procedures to ensure the Council retains oversight and responsibility of alternative education.

Finally, I issued a public report about your Council's failure to deal properly with an elderly man's financial assessment for adult social care. The Council made a self-funding calculation that limited his expenditure to a restrictive personal expenses allowance, when he should have been able to spend his money as he wished, within reason. It also failed to disregard half the man's occupational pension, which his wife relied upon for her living expenses. This left the man paying for his own care longer than necessary.

I was pleased the Council agreed to apologise to the man's family and to pay an agreed sum to his estate, which reinstated his capital to £23,250. Since issuing the report, the Council has adopted a different approach to self-funding calculations, which means people can do what they want with their money when they are funding their own care, provided there is no evidence of deliberate deprivation of capital to avoid care charges. We also asked the Council to make sure it disregards 50% of occupational pensions when they are being paid to a spouse or civil partner for maintenance. We asked the Council to identify others adversely affected by its practices within the past 12 months and remedy any injustice caused to them.

I was pleased to see the constructive and professional manner in which elected members accepted the findings of the report and – crucially – decided to implement our recommendations in full. I understand this has led to just over 300 other residents' cases being reviewed to see if they have been similarly affected. It is also encouraging to see that guidance has been updated, and officers retrained to ensure they understand the correct process for assessing the finances of people accessing social care services.

Unfortunately, on a less positive note, I was disappointed to again note several significantly delayed and incomplete responses to our enquiries by your Council. While I do not underestimate the challenges posed by COVID-19, this has been a recurring feature for several years and your complaint handling has fallen below the standards we expect. As you will appreciate, poor quality and delayed responses to our enquiries prevent our office from conducting our work in an efficient manner and may unnecessarily add to injustice suffered by complainants. I ask that you urgently consider your Council's approach to all aspects of its complaint handling, prioritising good standards of administrative practice, and seeking to improve the process and outcomes for people who complain to you. In doing so, if there is any support we can provide, please contact us.

### **Supporting complaint and service improvement**

I am increasingly concerned about the evidence I see of the erosion of effective complaint functions in local authorities. While no doubt the result of considerable and prolonged budget and demand pressures, the Covid-19 pandemic appears to have amplified the problems and my concerns. With much greater frequency, we find poor local complaint handling practices when investigating substantive service issues and see evidence of reductions in the overall capacity, status and visibility of local redress systems.

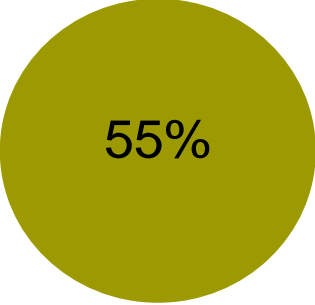
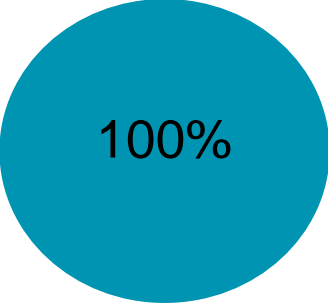
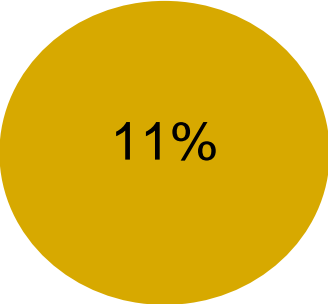
With this context in mind, we are developing a new programme of work that will utilise complaints to drive improvements in both local complaint systems and services. We want to use the rich evidence of our casework to better identify authorities that need support to improve their complaint handling and target specific support to them. We are at the start of this ambitious work and there will be opportunities for local authorities to shape it over the coming months and years.

An already established tool we have for supporting improvements in local complaint handling is our successful training programme. During the year, we successfully adapted our face-to-face courses for online delivery. We provided 79 online workshops during the year, reaching more than 1,100 people. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

Yours sincerely,

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

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

Complaints upheld		
	<p><b>55%</b> of complaints we investigated were upheld.</p> <p>This compares to an average of <b>63%</b> in similar authorities.</p>	<p><b>18</b> upheld decisions</p> <p>Statistics are based on a total of 33 detailed investigations for the period between 1 April 2020 to 31 March 2021</p>
Compliance with Ombudsman recommendations		
	<p>In <b>100%</b> of cases we were satisfied the authority had successfully implemented our recommendations.</p> <p>This compares to an average of <b>99%</b> in similar authorities.</p>	<p>Statistics are based on a total of 16 compliance outcomes for the period between 1 April 2020 to 31 March 2021</p>
<ul style="list-style-type: none"><li>• 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.</li></ul>		
Satisfactory remedy provided by the authority		
	<p>In <b>11%</b> of upheld cases we found the authority had provided a satisfactory remedy before the complaint reached the Ombudsman.</p> <p>This compares to an average of <b>10%</b> in similar authorities.</p>	<p><b>2</b> satisfactory remedy decisions</p> <p>Statistics are based on a total of 33 detailed investigations for the period between 1 April 2020 to 31 March 2021</p>

**NOTE:** To allow authorities to respond to the Covid-19 pandemic, we did not accept new complaints and stopped investigating existing cases between March and June 2020. This reduced the number of complaints we received and decided in the 20-21 year. Please consider this when comparing data from previous years.