

Local Government OMBUDSMAN

24 June 2011

Mr T McArdle
Chief Executive
Lincolnshire County Council
County Offices
Newland
LINCOLN LN1 1YL

Dear Mr McArdle

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.

The law allows me to discontinue enquiries and I will often do so when a council agrees to remedy the injustice caused to the person who has complained. Those decisions are described as local settlements. Last year there were seven local settlements. Two of these raised issues that I think it appropriate to draw to the Council's attention.

1. One complaint concerned the education of a seven year-old child with special educational needs and a diagnosis of Asperger's syndrome. He was permanently excluded from his primary school following an escalation of incidents of violent behaviour. Before the child was excluded, his School told the Council that it '*...desperately needs support immediately...*' and subsequently called an urgent Annual Review meeting for his statement of special education needs. Neither of the two officers who deal with SEN statements was able to attend due to prior commitments. The Council made commendable efforts to secure a place for the child at a special school and it worked sensitively and constructively to resolve the issues. In the time between the child being excluded and taking up a place at the special school his mother felt she had no option but to pay for him to be educated at home. After I had begun enquiries

the Council agreed to refund her the costs she had incurred.

My purpose in highlighting this case is to draw attention to information provided to my investigator that two officers deal with some 4,000 statements for children with special education needs. It is entirely a matter for the Council to decide how to deploy its increasingly pressured resources but it may wish to consider whether this is an adequate staffing level for the workload.

2. I am concerned to note that in an investigation of a complaint about adult social care my staff found that the Council had no records of three assessments that it claimed to have made of an elderly woman's mental capacity. In each instance the Council claimed that its assessment was that the woman lacked capacity to make legal and financial decisions and so officers made decisions in her 'best interests' that she should remain in residential care when she said she wanted to return to her own home. The Council said that it had lost the relevant files.

My concerns are compounded by the fact that the Council took from May 2009 to March 2010 to respond to a complaint from the woman's daughter.

Officers agreed to review staff training in assessing mental capacity in accordance with the Mental Capacity Act, implement rigorous monitoring of record keeping and review its procedures for handling complaints. I am sure that the Council will want to satisfy itself about these important issues.

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. The increasing number of people who arrange and pay for their own social care now have 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 75 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.

Schools in your Council area have been covered by our new powers since September 2010. We have appreciated the support we have been given by your staff in making schools and Governors aware of our extended powers. Regardless of the final outcome of the Education Bill's passage through Parliament, we are committed to ensuring any lessons learnt from our management of these cases is shared as widely as possible and will continue to liaise and work with staff within the Council to achieve this.

I had received 10 complaints about schools in your area to the end of March 2011. The complaints were about teacher conduct, pupil safety, bullying, behaviour and discipline but there was no discernible trend. Across the 14 areas, the biggest complaint categories were bullying (34%), teacher conduct (27%) and special educational needs (21%).

Of the five complaints decided in your area one was referred back to the school for consideration under its own procedures, two were remedied by the school before the investigation was completed and two were closed under Ombudsman's discretion due to insufficient injustice. The remaining complaints are still being investigated.

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 (for example there was an alternative course of action available or the complainant was not a parent or pupil of the school).

The outcome of the 47% of cases where we initiated an investigation was:

- 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. During 2010/11 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



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	5	0	1	6	1	2	0	0	6	21
Advice given	1	0	2	11	1	0	0	2	6	23
Forwarded in investigative team (resubmitted)	2	0	1	0	1	3	0	0	0	7
Forwarded to investigative team (new)	10	0	3	11	1	6	0	1	3	35
Total	18	0	7	28	4	11	0	3	15	86

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	7	0	0	17	7	2	33

Adult social care decisions made from 1 Oct 2010*

	To discontinue investigation, other	Total
2010 - 2011	1	1

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

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	14	30.6
2009 / 2010	25	21.8
2008 / 2009	11	22.7

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

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	First enquiries	
	No of first Enquiries	Avg no of days to respond
2010/2011	2	35.0