

24 June 2011

Mr Neil Davies
Chief Executive
Medway Council
Gun Wharf, Dock Road
Chatham, Kent ME4 4TR

Dear Mr Davies

Annual Review Letter

We are writing with our annual summary of statistics on the complaints made to us about your authority for the year ending 31 March 2011. We 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. We 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. We also wanted to provide you with some information on the schools complaints service which commenced in Medway in April 2010.

The statistics also show the time taken by your council to respond to written enquiries and the average response times by type of authority.

Enquiries and complaints received

Last year our advice team handled 104 enquiries about your council. Of these 19 related to complaints which we considered were premature, and we referred them to your council for investigation. We gave advice to 26 other enquirers on a variety of matters, including our jurisdiction. Our advice team treated 59 enquiries as complaints and passed them on to an investigative team, including 4 that had been resubmitted following consideration by your council. The category which generated the highest number of complaints by a significant margin was education and children's services. Thirty four complaints were received about this service area.

As you know, we consider it important to deal with complaints as swiftly as possible and council response times to our enquiries are a significant factor in achieving timely outcomes. From formal enquiries made on 36 complaints this year, your average response time was 24.7 days, which is within the 28 day target and a further improvement on last year's already good figure.

Complaint outcomes

Last year we made decisions on 66 complaints against your council. There were 22 complaints in which we found no, or insufficient evidence of fault by the council to warrant further investigation.

We used our discretion not to pursue investigations into a further 22 complaints, often where the injustice to the complainant was not significant enough to warrant a remedy, or where the remedy that the council had already provided was adequate. We found that eight complaints were outside our jurisdiction. We upheld the remaining 14 complaints by agreeing a remedy with your council.

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 ombudsman decided and which were within our jurisdiction were local settlements. The comparative figure for your authority was 21%.

Housing

Three local settlements related to housing. The first of these concerned a delay in assessing medical evidence and the effect of this delay on the complainants' housing priority. As it is the council's policy to award housing priority from the date it assesses medical evidence, rather than from the date it is received, it is clearly important that there should not be unreasonable delay in doing this. It took two months to assess medical evidence that resulted in the complainants being moved from Band D to Band C; and a further five months to move them from Band C to Band B. This second delay was because officers waited for the outcome of an occupational therapy assessment which revealed nothing that was not already known to them as a result of an earlier home visit. The complainants had already been re-housed by the time my investigator was able to reach a view on the complaint. So, we asked the council to pay £50 for each month of unreasonable delay amounting to £250, allowing one month in each instance of delay as a reasonable period in which to have carried out the assessments.

The second case was about the complainant's front door not fitting properly and the council refusing to replace it. My investigator made an early visit together with a senior council officer. We are pleased to note that the officer concerned dealt with matters promptly and effectively. Consequently the council replaced the front door and, in addition, made some changes to the complainant's central heating system to improve its effectiveness.

In the third case the complainants were council tenants who became aware that some people in their street were paying a lower rent than others, even though their homes were of a similar size. Again the council responded positively. It realised that there were inconsistencies in the way that rear extensions to properties had been treated, and is now in the process of regularising matters by treating all such extensions as bedrooms and gradually bringing underpaid rents up to the right level. In the light of the inconsistencies, the council paid the complainant £200 in recognition of their time and trouble in pursuing the complaint.

Benefits and tax

The council showed a similarly constructive and cooperative attitude in settling a number of other complaints. In particular, my investigator noted officers' open responses to her enquiries, and their willingness to accept fault in relation to a local taxation complaint. In this case the revenues team failed to respond to the complainant's enquiries about his potential entitlement to council tax benefit and to send him a claim form as it should have done. Meanwhile the complainant, who had recently retired, struggled to pay council tax instalments from a reduced income, but fell behind with these. This led to reminder notices being sent to him and a summons. When the complainant's claim for council tax benefit was assessed, he had no entitlement because of his income level. However, the council agree to credit £50 compensation to the complainant's council tax account to reduce the outstanding arrears, and to acknowledge the distress caused to him when it issued a summons before his benefit claim had been assessed. The council had already

withdrawn the summons before the date for the hearing to the magistrates court and cancelled the £75 costs. The council agreed that it needed a more integrated approach in responding to enquiries from council tax payers; and also agreed that the revenues team should send out council tax benefit claim forms on request, rather than passing such simple requests to colleagues in the benefits team.

The council was also swift to agree to settle a second local taxation complaint. This complaint related to the council issuing a summons for council tax arrears the day after it wrote to the complainant promising to wait for 10 days before doing so. The council then withdrew the summons without telling the complainant, so that he prepared a defence statement and attended the magistrates court unnecessarily. The council had already offered to settle matters by paying the complainant £87. But, my investigator increased this to £150, as she did not think that the council's original offer fully recognised the inconvenience the complainant had been put to in having to go to court.

Planning and development

In the case of a planning enforcement complaint, the complainant lived in a rural area. She complained about delay by the council in dealing with unauthorised development and activities on neighbouring farmland. The delay amounted to about 15 months, and was acknowledged by the council in response to my investigator's enquiries. The council also offered £300 in compensation. However, my investigator asked the council to raise this to £750 and to set out what it intended to do about the breaches. The council agreed to the raised compensation and said that it had passed the various matters to its legal team for consideration of enforcement and prosecution.

Education and children's services

There were two education complaints against the council which resulted in local settlements. The first was about the withdrawal of home to school transport and the inadequacy of the provision following a breakdown in communication. The council agreed to amend the child's statement of special educational needs to include transport in the light of supporting medical evidence.

A second complaint concerned school admissions. In this case the council did not arrange for the complainant's son's special needs to be taken into account when testing for his admission to a voluntary controlled grammar school. Nor did the appeal panel first consider whether the complainant's son had a disability when considering his appeal against the refusal of admission. The council agreed to reassess the complainant's son appropriately and, if necessary, to arrange a rehearing of the complainant's appeal against any refusal. It agreed to do this in accordance with the relevant procedures for disabilities, and ensure that its panellists, clerks and presenting officer received appropriate training.

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. Our 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 1351.

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 April 2010. We would like to thank Medway for its ongoing support and assistance during the initial period when head teachers, clerks and governors were briefed on the new complaint service, and thereafter in supporting us to provide training for schools to help them develop their complaints handling procedures.

We had received eight complaints about schools in your area to the end of March 2011. These were about bullying, special educational needs, exclusions and a child's name as held on the school roll. Across the 14 areas, the biggest complaint categories were bullying (34%), teacher conduct (27%) and special educational needs (21%).

Of the complaints decided in your area in six cases we initiated an investigation. In the remaining two cases the complaint was referred back to the school for it to consider using its own procedures as it had not yet had the opportunity to do so

Of the six cases where we initiated an investigation, a satisfactory resolution was reached between the parties in two 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 three of the cases. In one we found that there was no fault in the actions of the school.

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 2010/2011 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 we should be pleased to arrange for a senior manager to meet and explain our work in greater detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Martin', with a horizontal line underneath.

Dr Jane Martin
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	3	4	1	3	0	2	5	0	1	19
Advice given	1	5	1	10	2	0	4	0	3	26
Forwarded in investigative team (resubmitted)	0	0	0	1	0	1	1	0	1	4
Forwarded to investigative team (new)	4	3	3	20	6	5	5	2	7	55
Total	8	12	5	34	8	8	15	2	12	104

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	14	0	0	22	22	8	66

No adult social care decisions were made in the period

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	35	24.7
2009 / 2010	30	27.3
2008 / 2009	34	40.2

Provisional comparative response times 01/04/2010 to 31/03/2011

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	1	23.0