

Local Government OMBUDSMAN

24 June 2011

Ms M Carney
Chief Executive
Sefton Metropolitan Borough Council
Town Hall, Lord Street
SOUTHPORT
PR8 1DA

Dear Ms Carney

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.

Early in the year the Council considered my Further Report about a complaint by two allotment holders. I had issued the Further Report because I was dissatisfied with the Council's response to my first reports on the complaints. In particular I was concerned that officers had:

- failed to advise Councillors of the relevant case law;
- introduced irrelevant considerations in their covering report;
- made irrelevant, disrespectful and discourteous comments about my office;
- appeared to be under a misapprehension about the content of one of the Reports and about the most basic principles of public law.

The Further Report reminded the Council of the maladministration that I had found:

- that it had locked an allotment holder out of his allotment without regard to his rights under allotment law (which could not be ignored simply because the Council wanted to restore

- order on the site);
- not given a second allotment holder the opportunity to comment before forming and expressed in writing a view about his involvement in an altercation;
- falsely claimed that the second allotment holder had been cautioned by the Police when enquiries made through the proper channels would have established that this was not true.

I repeated my recommendations for remedies - apologies and modest payments to the two allotment holders.

It is most regrettable that the Council remained recalcitrant and did not accept my recommendations. I very much doubt that the way it dealt with my Further Report would meet the standard subsequently outlined in *Gallagher & McCarthy v Basildon District Council*.

The Local Government Act gives me the power to require a council to publish a Statement if I am not satisfied with the action it has taken or proposes to take following a Further Report. Taking that action would not require the Council to reconsider the matter and would not bring any benefit to the two allotment holders. In all the circumstances, I do not intend to pursue a Statement.

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 April 2010. We have been very grateful for the support and assistance we have been given by your staff in making schools and Governors aware of our extended powers. We have received positive feedback about the training we have delivered in conjunction with the Council on good complaint handling in schools and the input from the Council has been invaluable. Pending 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 six complaints about schools in your area to the end of March 2011. Three of these related to complaints primarily about bullying, two to staff conduct issues and one to SEN. This is in line with the trend across the 14 areas in that the biggest complaint categories were bullying (34%), teacher conduct (27%) and special educational needs (21%).

Of the three complaints decided so far in your area one was referred back as a premature complaint and two were closed under the Ombudsman's discretion on the basis of insufficient injustice.

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	1	2	1	1	3	3	0	0	1	12
Advice given	1	1	1	5	7	0	1	1	1	18
Forwarded in investigative team (resubmitted)	1	0	0	0	1	0	0	0	0	2
Forwarded to investigative team (new)	1	3	1	10	5	0	1	0	1	22
Total	4	6	3	16	16	3	2	1	3	54

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	11	3	3	24

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	8	27.9
2009 / 2010	12	26.8
2008 / 2009	21	21.7

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