

Local Government
OMBUDSMAN

24 June 2011

Mr J Mothersole
Chief Executive
City Council of Sheffield
Town Hall
Pinstone Street
SHEFFIELD S1 2HH

Dear Mr Mothersole

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 average time taken to respond to formal written enquiries by my office was 33.6 days. This is over the 28 days that we ask for and slightly worse than the previous year (31.4). I recognise that officers often assist us by providing information to enable us to decide whether or not to initiate an investigation. Such co-operation is appreciated and is not recorded as part of the formal response times.

The law allows me to discontinue enquiries and I will often do so when a council agrees to remedy the injustice claimed in a complaint. These decisions were recorded as 'local settlements'.

I want to draw the Council's attention to issues of concern arising from two 'local settlement' complaints involving housing repairs.

1. One of these complaints involved an annual gas service and a tenant who has a fractious relationship with the Council. He made three appointments for the gas servicing to be

carried out and none of them were kept by the Council's contractor. The fractious relationship was not improved by the contractor sending the tenant a letter after the first missed appointment mentioning legal proceedings. The service was finally done some eight months after the due date and after the Council failed for over three months to respond to the tenant's formal complaint and the tenant had consulted a solicitor and threatened the Council with legal action.

A repair order for all of the missed appointments was amongst the papers that the council provided to the solicitor. The repair order recorded that the service had been given 'status 12'. The key to definitions shows that 'status 12' was 'job invoiced and invoice has been approved'. This raised reasonable doubts in the tenant's mind about the accuracy of the contractor's charges to the Council. The Council says that the amount invoiced was zero. I did not pursue this matter as there was no individual injustice caused to the tenant but it is something that the Council should be aware about.

The Gas Safety Certificate recorded the operating pressure of the flue and its visual condition as 'pass'. It also recorded that a new radiator was needed. When someone from the contractor called to replace the radiator he asked for access to replace the flue. The tenant queried this and declined to give access. In the course of the dispute that followed the Council said that the flue terminal was showing signs of corrosion hence it needed replacement and that although this was not recorded on the Gas Safety Certificate the tenant had been told orally. The tenant arranged for an independent Gas Safety Inspector to visit who noted the flue damage and also identified considerably higher burner pressure than the Council's contractor had seven months previous. The Safety Inspector issued a safety warning notice. The Inspector wrote to the Council's contractor stating that its work had not complied with the relevant standards.

The contractor corrected the high pressure and issued a new certificate. It also mentioned the work of the person who had issued the Gas Safety Certificate and found it to be to an acceptable standard.

Gas safety is extremely important, especially in flats. This complaint indicated that there may be weaknesses in the arrangements for monitoring whether annual gas servicing has been done and for following up serious issues even when they have been set out in a formal complaint. It seems that there was no reconciliation of the Gas Safety Certificate and the flue repair job initiated by the contractor. Whilst the Council may not have been financially disadvantaged if the repair job for a missed visit was invoiced at zero, the fact is that a job with important safety implications was recorded with the status of 'complete' when it had not been done.

2. The other complaint concerned delay in repairing a roof to a block of flats. The person who complained had bought his flat under the right to buy scheme and delayed the purchase until the Council had completed some repairs to the roof. Almost immediately afterwards the roof began to leak again and continued to do so until the leaseholder ceased to have an interest in the flat. The leaseholder tried to make a claim on his insurance for the damage caused but the Council sent the insurers an engineers report about the roof on a completely different block of flats and the claim was denied.

The leaseholder sought legal advice and his solicitors issued the Housing Disrepair Protocol. This was introduced on 8 December 2003 to:

“encourage the exchange of information between parties at an early stage and to provide a clear framework within which parties in a housing disrepair claim can attempt to achieve an early and appropriate resolution of the issue ... lead to the avoidance of unnecessary litigation ... The court has the power to order parties who have unreasonably failed to comply with the Protocol to pay costs or be subject to other sanctions.”

The Council did not respond to the pre-action protocol for over a year between June 2009 and July 2010. It did not respond for four months to the householder's formal complaint (that we referred to in May 2010 as being 'premature') and by then the leaseholder had complained to me again.

During the year as a result of an internal process, I reviewed the file on a complaint concerning a seriously autistic child. I was concerned about the way that both my office and the Council had dealt with the matter. I was also concerned about the resulting situation of the parents feeling that they could not trust the Council's respite care. From my contact with the senior Council officers I was confident that they would share my concerns. I should like to take this opportunity to record my appreciation of the very positive and constructive response from the Executive Director of Children and Young People's Services and her senior staff.

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 majority of those complaints were about SEN (six) but I have also received complaints relating to teacher conduct, exclusions and behaviour and discipline. 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 two were referred back to the school for consideration under its own procedures, one was closed under Ombudsman's discretion as no worthwhile outcome could be achieved by an investigation and one was closed as the complainant had no right to complain. 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	3	10	3	7	6	2	26	0	5	62
Advice given	7	4	0	7	5	4	10	3	1	41
Forwarded in investigative team (resubmitted)	0	5	0	2	0	0	11	1	2	21
Forwarded to investigative team (new)	11	4	2	30	9	3	23	1	3	86
Total	21	23	5	46	20	9	70	5	11	210

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	36	0	0	35	19	7	97

Adult social care decisions made from 1 Oct 2010*

	Not to initiate an investigation	To discontinue investigation, other	Total
2010 - 2011	2	1	3

*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	36	33.6
2009 / 2010	41	31.4
2008 / 2009	61	43.0

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

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	21.0