

22 June 2012

Mr P G Marshall
Chief Executive
Ashfield District Council
Urban Road
KIRKBY-IN-ASHFIELD NG17 8DA

Dear Mr Marshall

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ended 31 March 2012. 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 forwarded by the Advice Team to my office, and decisions made on complaints about your authority. The decision descriptions have been changed to more closely follow the wording in our legislation and to give greater precision. Our guidance on statistics provides further explanation ([see our website](#)).

The statistics also show the time taken by your authority to respond to written enquiries.

I will generally not continue an investigation when a council accepts it has been at fault and agrees to remedy any injustice caused. I want to make the Council aware of errors found during such an investigation.

The Council began to recover 5 years' benefit overpayments from a retired man. It did not consider that for the last year the Department of Work and Pensions had written to him on Council headed paper saying he did not need to report changes in his pension income. Nor did it give him a chance to appeal. The Council recovered the overpayments by deductions from his weekly benefits.

The Council discovered the man was entitled to another small pension. He had not known about it and had not claimed it. He gave the Council the information he had from the pension scheme about how much he would get. Officers asked him for information he didn't have and threatened to stop his benefits while he was trying to get it. In her decision statement my investigator commented the man was at the mercy of the pension scheme: *'The regulations say that the Council can ask for reasonable information. I doubt it is anyone's definition of reasonable to keep on demanding something that a claimant does not have, especially as the Council was told that it would be £1.33 a week and dates for this. If the Council wanted to know how much this equated to a year, it could have added it up.'*

/....

The Council then issued overpayment notices claiming the man had not told it about the pension it had discovered. It made a serious mistake by recording pension he got yearly as monthly income. This meant the Council stopped his benefits because his income seemed much higher than it was. It also meant the deductions to recover overpayments stopped.

The Council sent him an invoice for £864. It included many confusing calculations and said he had to pay in 7 days. The man tried, unsuccessfully, to get the Council to explain the calculations. No one from the Council told him it could agree a payment plan. It threatened to take legal action. He arranged to cash in his pension to pay the invoice.

The Council realised its mistake and corrected his benefits but put what it owed him towards recovering the overpayments. It also suspended his benefits and gave him wrong information about the reason.

In response to complaints from the man and his MP the Council eventually accepted it had made mistakes. It offered to reduce overpayment it would recover by half. After making this offer the Council issued him with two more overpayment notices. In each case the Council said the man had not told it of changes to his pension. In fact he had told the Council promptly.

My investigation found the Council had not followed the benefits Regulations and Government guidance. It appeared to automatically recover any overpayment and had not:

- correctly identified the causes of the overpayments it claimed to have made;
- decided whether the man could reasonably be expected to know he had been overpaid;
- considered whether, in the circumstances of the case, it should recover the overpayments;
- assessed the man's entitlement to benefits before deciding how much to recover;
- given enough and comprehensible information in its decision notices and when asked.

We decided not to continue the investigation when the Council agreed to pay the man £600. It also agreed to rewrite letters and notices to say it will agree repayment plans; to train its staff in recovering overpayments; and to ensure decisions about whether to recover overpayments are properly considered.

I realise the Council deals with many thousands of benefit claims in a year and one citizen's experience may be an isolated incident rather than a symptom of systemic problems.

Changes to our role

I am also pleased to have this opportunity to update you on changes to our role. Since April 2010 we have been exercising jurisdiction over the internal management of schools on a pilot basis in 14 local authority areas. This was repealed in the Education Act 2011 and the power restored to the Secretary of State for Education. During the short period of the pilot we believe we have had a positive impact on the way in which schools handle complaints. This was endorsed by independent research commissioned by the Department for Education which is available [on their website](#).

Our jurisdiction will end in July 2012 and all complaints about internal school matters will be completed by 31 January 2013.

From April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman (IHO). We are working with the IHO

to ensure a smooth transition that will include information for local authority officers and members.

Supporting good local public administration

We launched a new series of Focus reports during 2011/12 to develop our role in supporting good local public administration and service improvement. They draw on the learning arising from our casework in specific service areas. Subjects have included school admissions, children out of school, homelessness and use of bankruptcy powers. The reports describe good practice and highlight what can go wrong and the injustice caused. They also make recommendations on priority areas for improvement.

We were pleased that a survey of local government revenue officers provided positive feedback on the bankruptcy focus report. Some 85% said they found it useful.

In July 2011, we also published a report with the Centre for Public Scrutiny about how complaints can feed into local authority scrutiny and business planning arrangements.

We support local complaint resolution as the most speedy route to remedy. Our training programme on effective complaint handling is an important part of our work in this area. In 2011/12 we delivered 76 courses to councils, reaching 1,230 individual learners.

We have developed our course evaluation to measure the impact of our training more effectively. It has shown that 87% of learners gained new skills and knowledge to help them improve complaint-handling practice, 83% made changes to complaint-handling practice after training, and 73% said the improvements they made resulted in greater efficiency.

Further details of publications and training opportunities are on [our website](#).

Publishing decisions

Following consultation with councils, we are planning to launch an open publication scheme during the next year where we will be publishing on our website the final decision statements on all complaints. Making more information publicly available will increase our openness and transparency, and enhance our accountability.

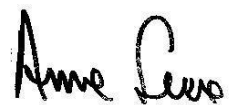
Our aim is to provide a comprehensive picture of complaint decisions and reasons for councils and the public. This will help inform citizens about local services and create a new source of information on maladministration, service failure and injustice.

We will publish a copy of this annual review with those of all other English local authorities on our website on 12 July 2012. This will be the same day as publication of our Annual Report 2011/12 where you will find further information about our work.

We always welcome feedback from councils and would be pleased to receive your views. If it would be helpful, I should be pleased to arrange a meeting for myself or a senior manager to discuss our work in more detail.

Yours sincerely

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Mr P G Marshall

A handwritten signature in black ink that reads "Anne Seex". The signature is written in a cursive style with a large initial 'A'.

Anne Seex
Local Government Ombudsman

LGO advice team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Planning & Development	Total
Advice given	1	1	0	1	0	0	0	3
Premature complaints	0	4	1	2	0	3	0	10
Forwarded to Investigative team (resubmitted)	0	1	0	0	1	0	1	3
Forwarded to Investigative team (new)	0	3	0	1	0	1	1	6
Total	1	9	1	4	1	4	2	22

Investigative team - Decisions

Not investigated			Investigated			Report	Total
No power to investigate	No reason to use exceptional power to investigate	Investigation not justified & Other	Not enough evidence of fault	No or minor injustice & Other	Injustice remedied during enquiries		
0	1	1	5	0	5	0	12

	No of first enquiries	Avg no of days to respond
Response times to first enquiries	5	23.8