

# Local Government & Social Care OMBUDSMAN

18 July 2018

*By email*

Keith Ireland  
Chief Executive  
Lincolnshire County Council

Dear Keith Ireland,

## **Annual Review letter 2018**

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

### **Complaint statistics**

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

We issued two public reports about your Council last year. Both concerned adult social care. In the first case, the social care providers with which the Council had contracted had difficulties providing home care for the complainant's wife. On balance, we found no fault that the Council did not seek to contract with another agency to meet her needs because of the possibility the main contract would be undermined. Nevertheless, the Council accepted that, in the particular circumstances, it should have given greater precedence at an earlier stage to the complainant's wife's needs over its concerns for the main contract.

The complainant and the Council disagreed over the way in which the complainant's wife's needs should be met. The complainant wanted a package of care at home, while the Council considered a care home to be appropriate. Although the Council was at fault because it failed to review her care and support plan, the High Court has confirmed that an individual's wishes are not the same as their needs. Had the Council correctly reviewed the plan, more likely than not residential care would have been arranged. When residential care was arranged, however, this was in a dementia unit. The complainant's wife did not have dementia and was there for several months, having to lock herself in her room for safety to prevent other residents from going into her room uninvited. The complainant had been involved in choosing this placement, but the Council accepted it was at fault and should not have agreed to it.

The Council agreed to make payments to the complainant and his wife to reflect their distress, and to pay travel expenses incurred. As we were concerned residential care may have been commissioned for others for whom home care was not available, the Council agreed to review its procedures and to consider others who might be affected. The Council undertook a review and considered the circumstances of others, and identified two cases affected in a similar way. The Council offered the persons affected payments as recommended by us. We were satisfied by the Council's actions.

In the other case, an urgent care home placement was needed for the complainant's father. The Council did not, as it should have, identify a care home place which did not require a 'top up fee' from a third party and so should have paid the entire cost of the care. The complainant did not pay the top up fee and her father was evicted. A placement at a new home fell through at the last minute and the social worker could not find another which did not require a top up fee. The complainant was not told the Council would pay the top up fee if necessary. The complainant contacted 23 homes: one did not require a top up and her father moved in.

The information the Council published on top up fees was unclear, although it has since been improved. It has also since changed its process and says if a person chooses a care home which requires a top up fee it will explain their right to a home without a fee. It did not set out a personal budget for the complainant's father and told the complainant it never provided personal budgets to residents in care homes. This was contrary to the Care Act and the Council has clarified that it now does comply.

The Council told the complainant it did not get involved in top up agreements, which are a matter between the care home and the person paying. It also did not offer to pay the top up fee and recoup it from the complainant, as appropriate. It said it never does this, although the statutory guidance says it "must" do so. One of the reasons for this is to avoid unnecessary evictions, as here.

We recommended the Council should apologise, reimburse the top up fees which were paid and make payments for distress and time and trouble. The Council has done this. The investigation identified problems which needed addressing and may have affected large numbers of care home placements. We therefore also recommended within six months, the Council brings its procedures in line with the Care Act by ensuring that people are offered the option to pay top-up fees directly to the Council; reviewing its top-up fee contract to reflect the option to pay the top-up fee directly to the Council; reviewing existing top-up agreements to bring them in line with the Care Act; and assessing whether staff are aware of the Council's duties under the Care Act and provide further training if necessary. These latter recommendations are outstanding and I look forward to confirmation of the changes made.

### **Future development of annual review letters**

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new [corporate strategy](#) for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will be seeking views from councils on the future format of our annual letters early next year.

### **Supporting local scrutiny**

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at [www.lgo.org.uk/scrutiny](http://www.lgo.org.uk/scrutiny). I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

### **Learning from complaints to improve services**

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the [reports](#) and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

### **Complaint handling training**

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council

link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

We were pleased to deliver one adult social care complaint handling courses to your staff during the year. I welcome your Council's investment in good complaint handling training and trust the course was valuable.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MK' with a stylized flourish underneath.

Michael King  
Local Government and Social Care Ombudsman  
Chair, Commission for Local Administration in England

**Local Authority Report:** Lincolnshire County Council  
**For the Period Ending:** 31/03/2018

For further information on how to interpret our statistics, please visit our website:  
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

## Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
33	0	2	22	0	7	0	9	0	73

## Decisions made

				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
1	0	37	17	7	11	61%	73

### Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.  
 The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

### Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
11	0