

# Local Government & Social Care OMBUDSMAN

18 July 2018

*By email*

Richard Flinton  
Chief Executive  
North Yorkshire County Council

Dear Richard Flinton,

## **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.

Following last year's letter, when I wrote to express my concern about your Council's response to our investigations involving adult social care, my Assistant Ombudsman visited you. Following the meeting, I was delighted to hear your willingness to work with us in an open and constructive way to improve the Council's response to our enquiries and to your

own complainants. Since that meeting, the Council has regularly updated us on its progress with continuing openness and willingness learn from past mistakes. I know your team have also found it very helpful to have those frank discussions and the opportunity to share the developments you are making to the way your Council handles complaints in its Health and Adult Services directorate.

In May and June last year, before our meeting and the improvements the Council has since put in place, we twice had to write to the Council to threaten to use our powers to issue a witness summons after long delays in responding to our enquires. Although we have not had to threaten to use our powers since, there were three further occasions when we encountered delays in responding to our enquiries in January, February and March for which the Council has apologised. Although still disappointing, it was significantly less than the previous year. I am hopeful next year we will see an even better picture given the improvements your Council has put in place including the way the directorate monitors the complaints it receives.

We issued three public reports about your Council in January and February this year, all involving issues relating to adult social care. The first report involved failings in an adult social care financial assessment. The Council was unable to demonstrate it had taken proper account of all the relevant facts and circumstances when treating gifted money as deprivation of capital. The Council agreed to pay £250 to recognise the distress caused, carry out a fresh financial assessment and to come to a properly informed and evidenced decision about whether any deprivation of capital assets had occurred. We also asked it to review its current procedures and guidance on how to deal with cases where deprivation of assets may have occurred. Although most of the recommendations have been actioned by the Council, we are still awaiting some evidence and will continue to request updates.

The second and third reports concerned the confusing and conflicting information the Council gave to families about the financial arrangements for paying care home fees, including 'top-up' fees. It failed to provide a meaningful personal budget or produce a care and support plan before the placement commenced. The families felt they would have made different decisions about their relative's care if they had received the correct information at the right time. The Council had not been paying the full care fees to the care home, the default position set out in the Department of Health Care and Support Statutory Guidance. This meant care homes collected both the resident's contribution and any third-party top-up. This can leave residents vulnerable to eviction if payments are not maintained, though that was not an issue in these cases. In addition, we found the Council had a backlog of customers waiting for financial assessments.

In the first case, a daughter thought the charge for her mother's care would be significantly less than the Council later assessed it to be. The Council agreed to apologise, reimburse the 'top-ups' paid over a 10 month period, and improve its procedures. In the second case, the errors meant the daughter paid a top-up of £75 a week rather than £25 a week. There was also no formal top-up agreement in place. The Council's assessment did not clearly address the mother's need to be placed close to her daughter. The Council has apologised, paid £500 for time and trouble and refunded £50 a week of the top-up the complainant paid and agreed to improve its procedures.

These reports were an opportunity to highlight the issues raised as other families may be similarly affected by the faults we found and so we made recommendations for both the individual and for the benefit of other service users.

I am pleased to see the steps the Council has taken to implement the recommendations from these two reports and am encouraged by how it has used the learning from these complaints to drive improvements to services. It has been updating its working practices but

there is more work to be done before we are satisfied it has implemented all our recommendations. We continue to monitor its progress against all the agreed actions.

### **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).

Yours sincerely,



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

**Local Authority Report:** North Yorkshire 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
31	0	3	22	1	7	0	1	0	65

## Decisions made

Decisions made				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
3	0	15	28	8	19	70%	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
16	2