

LOCAL GOVERNMENT OMBUDSMAN ANNUAL REPORT 13/14

Joint Report by the Ombudsman Link Officer and the Head of Business Strategy and Support

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

1. RECOMMENDATION

- 1.1 That the Committee notes the Ombudsman Annual Letter

2. INTRODUCTION

- 2.1. In October 1999 the Committee agreed it should receive an Annual Report summarising all complaints about the County Council dealt with by the Ombudsman. It should also receive an Annual Report of any such complaints investigated by the Education Funding Agency for completeness. This Report fulfils that purpose, provides a brief commentary on the Ombudsman's Annual Review letter and gives information about changes implemented by the Local Government Ombudsman within her own organisation.

3. LOCAL GOVERNMENT OMBUDSMAN ANNUAL REPORT

3.1. Ombudsman's Jurisdiction

- 3.1.1 The Ombudsman's jurisdiction is covered by The Local Government Act 1974 which defines the main statutory functions for the Ombudsman as:

- to investigate complaints against councils and some other authorities
- to investigate complaints about adult social care providers from people who arrange or fund their adult social care (Health Act 2009)

The Ombudsmen's jurisdiction under Part III of the Act covers all local authorities (excluding town and parish councils); police and crime bodies; school admission appeal panels and adult social care providers.

- 3.1.2 The Apprenticeships, Skills, Children and Learning (ASCL) Act 2009 gave the LGO new powers for considering complaints against a school by pupils and parents of a pupil, and replaced the role of the Secretary of State. However The Education Act 2011, which was given Royal Assent on 15 November 2011, repealed the power to complain to the Local Government Ombudsman about internal school matters. From July 2012 these responsibilities ceased in all 14 local authority areas that were trialing escalating school complaints to the Ombudsman and the role has reverted to the Secretary of State. Complaints raised against schools continue to be managed through the individual school's complaint process with the option to escalate to the Department for Education if issues are unresolved at a local level.

4. Ombudsman's Annual Review Letter

- 4.1 The Annual Review letter is the successor to the Ombudsman's Annual Letters, setting out her observations on her dealings with the County Council over the year. A copy of her letter for 2013/14 is attached at Appendix A.

5. Caseload

5.1.1 It is usual that the Council are approached by the LGO when a complaint is brought to its attention. In April 2013 the LGO undertook a review into the way in which complaints were assessed and managed.

5.1.2 This review resulted in some complaints being raised with the LGO and them being considered and closed without any need for the LGO to request any information from the Council.

5.1.3 The table below indicates both the number of complaints received by the LGO about The Council in the last five years and the number of those complaints where the LGO sought information from the Council:

Table 1

Year	Number Complaints Received by the LGO	Number Complaints LGO referred to DCC
2013/14	137	105
2012/13	62	62
2011/12	50	50
2010/11	54	54
2009/10	56	56

5.1.4 From table 1 above it can be noted that the revised processes at the LGO resulted in 32 complaints received about the Council being closed by the LGO without the need to consult.

5.1.5 Details of all the complaints received by the Council during 2013/14 and the outcomes of these were tabled and discussed at Standards Committee in June 2014.

5.1.6 The LGO Annual Review letter (Appendix 1), together with Table 1 clearly indicate that during 2013/14 the Council experienced a sharp increase in the number of complaints received by the Ombudsman in respect of the services provided. The report to Standards Committee in June 2014 stated that this was more than likely due to:

- imposed austerity measures resulting in reduced Council services, with service user's expectations remaining at level higher than the Council can afford to deliver
- Operational changes within the Local Government Ombudsman's office. These have been borne as a result of substantial budget cuts and a negative report about LGO performance from the Communities and Local Government Select Committee
- The Department for Transport's changed criteria relating to the award of Blue Badges which has resulted in a large number of historic Blue Badges owners making a complaint when their blue badge is refused under the new legislation

5.1.7 It should be noted that the number of complaints against the Council that were recorded as upheld was not in alignment with the LGO view an explanation as to why this occurred can be gathered from 5.1.8 below.

However the complaints detailed in the report to Standards Committee in June accurately reflected those complaints where the LGO clearly indicated fault and which the Council's LGO Link Officer considered to have sufficient merit to be brought to the attention of the Committee.

5.1.8 The LGO are clear that they do not consider bare numbers of complaints against a Council as proof that it is either a 'bad' or 'good' council. It recognises that the larger the population an individual Council serves, the more likely the LGO is to receive complaints about it. Furthermore the LGO are clear that a significant uplift in complaint numbers does not necessarily indicate that a council has become worse at what it does. The LGO may have received several complaints about the same issue from different residents; for example a controversial planning decision or application. The LGO would record each of these as a separate complaint.

6. Case Determination

6.1.1 Recently the LGO has released more detail on how each complaint outcome is determined, together with how closing status is defined.

Upheld: A decision has been taken that an authority has been at fault in how it acted and that this fault may or may not have caused an injustice to the complainant, or where an authority has accepted that it needs to remedy the complaint before we make a finding on fault. If we have decided there was fault and it caused an injustice to the complainant, usually we will have recommended the authority take some action to address it.

Not upheld: Where we have investigated a complaint and decided that a council has not acted with fault, we classify these complaints as not upheld.

Advice given: These are cases where we give advice about why LGO would not look at a complaint because the body complained about was not within the LGO's scope or they had previously looked at the same complaint from the complainant, or another complaints handling organisation or advice agency was best placed to help them.

Closed after initial enquiries: These complaints are ones where the LGO have made an early decision that it could not or should not investigate, usually because the complaint is outside the LGO jurisdiction and either cannot lawfully be investigated by it or that it would not be appropriate in the circumstances of the case to do so.

The initial enquiry could also determine that there was not sufficient injustice to a complainant to make an investigation viable, or that an investigation could not achieve anything, either because the evidence seen at this early stage confirms there was no fault, or the outcome a complainant desires is not one that could be achieved, for example overturning a court order.

Incomplete/invalid: These are complaints where the complainant has not provided the LGO with enough information to be able to decide what should happen with their complaint, or where the complainant tells them at a very early stage that they no longer wish to pursue their complaint.

Referred back for local resolution: The LGO work on the principle that it is always best for complaints to be resolved by the service provider wherever possible. Furthermore, the Local Government Act 1974 requires LGO to give authorities an opportunity to try and resolve a complaint before getting involved.

6.1.2 When the LGO considers the Council to be at fault, and there is sufficient maladministration or injustice to warrant the complainant to be worthy of a compensation payment, set compensation principles are followed. These are set out in the LGO remedy guidance documentation. Currently these documents are under review and therefore not available to share publicly. The LGO have confirmed that once they have been finalised that information demonstrating how compensation payments are calculated will be available on their webpages.

7. Benchmarking

7.1.1 Although the Ombudsman's report is potentially useful for benchmarking, caution must be exercised when comparing this Council's performance with other councils that have little in common. Councils vary in size and demographics, furthermore District, Borough and Metropolitan Councils do not provide like for like services to compare with County Councils.

7.1.2 Table 2 below provides a condensed version of the data within the wider annual report to enable sight of DCC's performance in relation to its CIPFA comparators. This provides a more meaningful comparison.

Table 2

Council	Resolved Total	Upheld %	Resolved Adult S-C	Resolved Education	Resolved Highways
Dorset	56	29.4	10	27	9
Cambridgeshire	74	31	18	42	8
Gloucestershire	70	31.8	16	30	19
Norfolk	71	37.5	24	33	11
Lincolnshire	92	37.9	30	28	15
Somerset	58	40	14	28	14
Hampshire	90	40	21	30	19
Devon	141	40.3	42	33	13
W Sussex	130	40.5	59	34	22
E Sussex	111	47.5	60	25	13
Leicestershire	80	47.6	27	32	13
Worcestershire	64	51.9	19	30	5
Cumbria	48	54.5	17	23	5
Warwick	72	59.4	37	26	8
N Yorkshire	87	62.9	25	38	15
Essex	167	65.2	41	74	36

7.1.3 The high volume of complainants received (DCC are second highest in this table) is not a cause for concern. It is an indication that the Council has a complaint procedure that is easily accessible to our customers, that feedback is welcomed and taken seriously and that complainants are directed to the Ombudsman at the appropriate stage.

- 7.1.4** Across all Councils in England the Ombudsman upheld, on average, 46% of complaints. If this is compared to DCC's level upheld of 40.3% the Council is below the national average for complaints to the Ombudsman being upheld. When compared to DCC's CIPFA comparators, the Council is placed within the top percentile.
- 7.1.5** Within DCC the main service areas where complaints are escalated to the Ombudsman are Adult social care, Education and Highways. This trend is very similar to DCC's CIPFA comparators.
- 7.1.6** The LGO has for 13/14 published a review of complaints about Adult social care there were no issues raised within this report in terms of DCC's performance in this service area and as such there is no cause for concern in relation to the fact that this is one of the service areas where there are a high number of complaints received by the LGO.

8. Change within the Ombudsman's organisation

- 8.1.1** The Local Government Ombudsman is developing a corporate strategy for the next three years to consider their role in enhancing local accountability of public services. DCC has contributed to this via the National Complaint Managers Group (NCMG) as our Customer Relations Manager is on the executive committee of NCMG. In addition the NCMG has been invited to participate on the newly formed Ombudsman Advisory Forum, to represent the views of Local Authorities, this places this Council in a good position to influence future direction for the LGO.

9. Future Developments

- 9.1.1** Members will be acutely aware of the continuing financial constraints being faced by the County Council and the tough decisions around service provision that are being taken. The expectation of customers does not reduce in line with the challenges the Council faces, indeed customers feel more empowered to hold the Council to account, and therefore it is envisaged that more customers will escalate their dissatisfaction beyond the Council's own complaint procedure to the Ombudsman.
- 9.1.2** Even if the Council becomes more of a commissioning organisation it remains ultimately accountable for those services and as such the Ombudsman would hold the Council responsible for failings and injustice.
- 9.1.3** Members have previously acknowledged that complaints to the Ombudsman do not always involve the Council or the Appeals Committee having done anything wrong, quite often such complaints are raised as a result of the customer wanting something more, something better, or a different outcome. It is unlikely that public expectations of services will diminish and as such no reason to suppose that complaint levels will fall, they are more likely to rise. Despite these challenges the Council is maintaining its' performance in regard to meeting the LGO deadlines when asked to submit information to assist in a complaint investigation.
- 9.1.4** The decisions and recommendations the Council receives from the Ombudsman are taken seriously. The Customer Relations Team works hard with services to ensure recommendations are fully actioned and that as an organisation we learn from these recommendations to improve practice, strengthen policies and ensure our procedures are fit for purpose.
- 9.1.5** DCC performance in comparison to its CIPFA neighbours in terms of the level of complaints that the Ombudsman upholds places it joint 6th out of 18 councils and

is not a cause for concern. It is important that as a Council we put in place further robust checks and balances to ensure that complaint responses are thorough, fair and transparent, that redress for complainants is relevant and appropriate actions are implemented in order to demonstrate that this is a Council that learns from complaints and strives to improve practice and performance.

10. Additional Information

10.1.1 If any further information is required in relation to the Council's performance on Ombudsman matters please contact the Customer Relations Manager.

Carol Hayman
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01392 383624

Rob Parkhouse

Electoral Divisions: ALL

7 July 2014

By email

Mr Phil Norrey
Chief Executive
Devon County Council

Dear Mr Phil Norrey

Annual Review Letter 2014

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2014. This is the first full year of recording complaints under our new business model so the figures will not be directly comparable to previous years. This year's statistics can be found in the table attached.

A summary of complaint statistics for every local authority in England will also be included in a new yearly report on local government complaint handling. This will be published alongside our annual review letters on 15 July. This approach is in response to feedback from councils who told us that they want to be able to compare their performance on complaints against their peers.

For the first time this year we are also sending a copy of each annual review letter to the leader of the council as well as to the chief executive. We hope this will help to support greater democratic scrutiny of local complaint handling and ensure effective local accountability of public services. In the future we will also send a copy of any published Ombudsman report to the leader of the council as well as the chief executive.

Developments at the Local Government Ombudsman

At the end of March Anne Seex retired as my fellow Local Government Ombudsman. Following an independent review of the governance of the LGO last year the Government has committed to formalising a single ombudsman structure at LGO, and to strengthen our governance, when parliamentary time allows. I welcome these changes and have begun the process of strengthening our governance by inviting the independent Chairs of our Audit and Remuneration Committees to join our board, the Commission for Administration in England. We have also recruited a further independent advisory member.

Future for local accountability

There has been much discussion in Parliament and elsewhere about the effectiveness of complaints handling in the public sector and the role of ombudsmen. I have supported the creation of a single ombudsman for all public services in England. I consider this is the best way to deliver a system of redress that is accessible for users; provides an effective and comprehensive service; and ensures that services are accountable locally.

To contribute to that debate we held a roundtable discussion with senior leaders from across the local government landscape including the Local Government Association, Care Quality Commission and SOLACE. The purpose of this forum was to discuss the challenges and opportunities that exist to strengthen local accountability of public services, particularly in an environment where those services are delivered by many different providers.

Over the summer we will be developing our corporate strategy for the next three years and considering how we can best play our part in enhancing the local accountability of public services. We will be listening to the views of a wide range of stakeholders from across local government and social care and would be pleased to hear your comments.

Yours sincerely

A handwritten signature in black ink that reads "Jane Martin". The signature is written in a cursive style with a horizontal line underneath the name.

Dr Jane Martin
Local Government Ombudsman
Chair, Commission for Local Administration in England

Local authority report – Devon County Council

For the period ending – 31/03/2014

For further information on interpretation of statistics click on this link to go to <http://www.lgo.org.uk/publications/annual-report/note-interpretation-statistics/>

Complaints and enquiries received

Local authority	Adult care services	Benefits and tax	Corporate and other services	Education and children's services	Environmental services and public protection and regulation	Highways and transport	Housing	Planning and development	Total
Devon CC	42	0	3	44	8	31	1	8	137

Decisions made

Local authority	<u>Detailed investigations carried out</u>		Advice given	Closed after initial enquiries	Incomplete/Invalid	Referred back for local resolution	Total
	Upheld	Not upheld					
Devon CC	27	40	4	36	4	30	141

