



Mr Mike Anstey  
10 Davis Crescent  
Pirton  
Hitchin  
Hertfordshire SG5 3RB

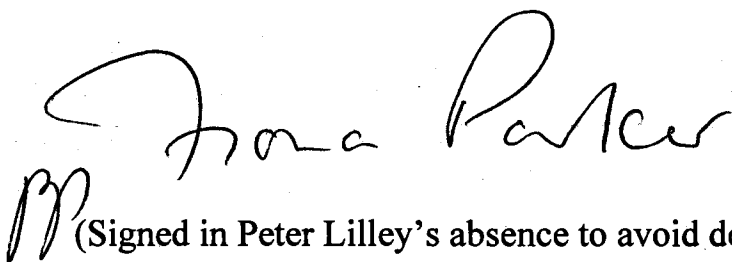
22 December 2008

Dear Mr Anstey

Further to previous correspondence, I have now heard from the Local Government Ombudsman in response to the points that I raised for you about your complaint against Luton Borough Council.

I enclose a copy of the letter for your information and if there are any points arising from the reply that you would like me to take up on your behalf, please do not hesitate to get in touch.

Yours sincerely

  
(Signed in Peter Lilley's absence to avoid delay)

15 December 08

Rt Hon Peter Lilley MP  
House of Commons  
London  
SW1A 0AA

Our ref: 07B17586/B2/JRW/dml  
Please quote our reference when contacting us and,  
if using email, please put the reference number in the email subject header

**If telephoning contact Molly Lofas on 02476 820039, or email [D.Lofas@lgo.org.uk](mailto:D.Lofas@lgo.org.uk)**

Dear Mr Lilley

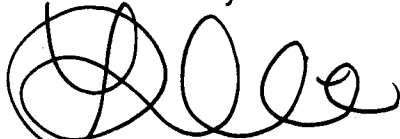
**Complaint by Mr M Anstey of 10 Davis Crescent, Pirton, Hitchin, Hertfordshire, SG5 3RB**

My investigator has now completed her enquiries into Mr Anstey's complaint, about which you wrote to me in February. I enclose a copy of my letter to Mr Anstey explaining my findings and outlining the local settlement which the Council has agreed to implement. I have now discontinued the investigation and closed the complaint.

If you want any papers you sent returned to you, please let us know as soon as possible. Our policy is normally to destroy files 12 months after we have decided the complaint.

Thank you for bringing the complaint to my attention.

Yours sincerely



J R White  
Local Government Ombudsman

Enc: Copy provisional view letter

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**Jerry White**  
Local Government Ombudsman  
**Neville Jones**  
Deputy Ombudsman

29 October 2008

Mr M Anstey  
10 Davis Crescent  
Pirton  
Hitchin  
SG5 3RB

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Dear Mr Anstey

### **Complaint against Luton Borough Council**

1. Further to your email correspondence with Mrs Lofas about your complaint, I am pleased that a satisfactory local settlement has been reached. This letter sets out my provisional view of your complaint and invites you to comment before I discontinue my investigation.

### **Your complaint**

2. You complained that the Council used material provided by the Luton and Dunstable Innovation Centre (LDIC) in a successful European Regional Development Fund (ERDF) application in January 2003, without acknowledging the LDIC's contribution, so the team lost the recognition for the work that was rightfully theirs.

### **Relevant information**

3. You were part of the Luton and Dunstable Innovation Centre working on behalf of the University of Bedfordshire. You worked closely with officers at the Council to develop plans and funding proposals for the Butterfield Innovation Centre (BIC).
4. The Council was concerned that if the University/LDIC was involved with the application for funding, it would not be able to tender for work associated with the contract if the application was successful. The Council did not discuss this with you. In January 2003 the Council submitted its application for funding for the BIC as a sole bid, not the agreed partnership bid document. The document used, but did not acknowledge, the work done by the LDIC in preparing the application and you were unaware until after it had been submitted that the

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Council had revised the application document to remove the association with LDIC. The two documents are in other respects almost identical.

5. The application was successful but because you and your colleagues were no longer associated with it, you lost the recognition which was rightfully yours and which is significant in the development of your professional standing. Your complaint to the Council was delayed until January 2006, when the Council provided a copy of the 2003 bid after intervention by the Information Commissioner.
6. Stage 3 of the complaints process was completed in July 2006. The Council acknowledged shortcomings in the way it had handled the bid, but said that this was a matter between itself and the University, which had accepted the Council's apology. You were unable to find out who at the University had done this and complained to me. You have also involved your MP and the Audit Commission in your pursuit of this matter.
7. In response to Mrs Lofas's enquiries, the Council accepted that it should have raised its concerns about the tendering process with the University and LDIC. It confirmed that a formal letter of apology had not been sent to the University in 2003, although the matter had been discussed with senior University officers.
8. The Council has now formally apologised to the University, and to you and your colleagues. It publicly acknowledged the contribution of the University of Bedfordshire and the LDIC to the development of the Butterfield Project at the official opening on 24 September 2008. And it has agreed to develop a proposal to support an Innovation Award for the 2009/10 financial year. This will support innovation and enterprise by providing the opportunity for an emerging business to operate from the Butterfield Innovation Centre and Business Base.
9. You are satisfied with this outcome, although you would also like to see the publication of a set of guidelines for partnership working, to avoid such a situation occurring again elsewhere. My special report on Local Partnerships and Citizen Redress includes a section on good governance which you are currently considering in the light of your own experience.

#### **My provisional view**

10. It seems to me that the Council revised the application document with the best of intentions, but was wrong to do so without discussing its concerns with you and your colleagues first. If officers had done this, you would at least have been spared the shock of discovering that you were no longer associated with the bid document, and at best might have been able to negotiate a different outcome. The Council's subsequent reluctance to be open with you about what had happened and why has also caused you considerable time and trouble in pursuing the matter.
11. So I am pleased that the Council has acknowledged it was at fault, and the impact that this had on you. It seems to me that the Council has satisfactorily remedied your complaint by the action it has now taken and I understand that you are satisfied with this outcome. But it seems to me that preparation of a set of guidelines for ethical partnership working would fall outside the scope of a local settlement, as this potentially has a much wider application. So it is my

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intention to discontinue my investigation and close your complaint, on the basis that the Council has agreed to a satisfactory local settlement.

**Next steps**

12. This letter sets out my current view on your complaint based on the information I have seen so far. If you disagree with anything that I have said, this is your opportunity to say why and send me any further information that you may have. It is important that you do this now because, while we may review a decision if asked (within three months), there is no formal right of appeal against our decisions. So I would like to make sure that I have taken your views into account before I make any decision on your complaint. So, please let me have anything further within the next three weeks. If you need more time, please contact Mrs Lofas to discuss this.

Yours sincerely

J R White  
Local Government Ombudsman

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Dear Mrs Lofas

Thank you for your letter dated 16 July enclosing a copy of the Council's response to your enquiries.

It would now seem that there is a growing agreement on the circumstances and that this could lead to a settlement of the complaint in an appropriate manner.

### **Background**

It would seem from the correspondence with the Council that there is now general agreement on the following:

1. The Council agree that the LDIC/ M Anstey / L Warren had been working closely, in partnership with the Council and others, to realise the Butterfield/ Innovation Centre project for over five years.
2. The Council now acknowledge that the LDIC/ M Anstey / L Warren helped to secure the funding of the Innovation and Business Base by contributing to, and writing sections of, the bid documentation, attending meetings (including the presentation of the concept to EEDA) , providing information to the Council's consultant and running the Partnership's pilot project (LDIC). As a point of record I can provide a copy of an email dated 25<sup>th</sup> May 2001 from Tim Malynn (then an LBC director) asking me to prepare the Luton Vauxhall Partnership funding proposal.
3. The Council now acknowledge that at some point during December 2002 and January 2003 Council officer/s took a decision to plagiarise (or revise the wording, if you prefer) the December 2002 documentation and then actually submitted it, without any communication, consultation or acknowledgement in January 2003.
4. The Council now acknowledge that the January 2003 documentation did contain sections of material written by M Anstey/ L Warren.

### **Maladministration**

The complaint was referred to the Ombudsman to seek out the facts and assess if the Council had engaged in unacceptable and unethical behaviour. In particular the complaint was about whether the Council had engaged in deception, and then subsequently intended to systematically mislead about the facts and circumstances.

### **Deception**

The Council now agree that 'there was poor communication of the decision to protect the University's interests' which in reality translates to 'there was no communication about the decision to alter the December 2002 Bid Document'.

It is inconceivable that between December 2002 and January 2003 that it was not possible for Council officers to contact myself, anyone at LDIC or anyone at the University to discuss the fact that the bid document was being altered to remove all references to LDIC.

Mrs Church's letter points out that 'the consultant working on the project at the time did highlight that the LDIC team, including Mr Anstey "would be aggrieved" by the Council revised approach.

There is only one explanation for what happened and that is that there was a deliberate decision not to communicate, in order to avoid 'aggravation' whilst all references to LDIC were removed from the document. As we have subsequently established they were using LDIC material, it is now possible to see why this happened - but it clearly indicates calculated deception. It was a betrayal of trust of a fundamental nature and a despicable way to treat partnership project contributors, who had devoted considerable time and effort to secure the projects success.

#### **Subsequent attempts to mislead about facts and circumstances**

You will be aware of the time, trouble and extensive letter writing that has been undertaken to uncover the details of what actually happened and the position as it stands today.

After the submission of the January 2003 Bid Document I wrote to the Council to ask if they had submitted material prepared by LDIC – they did not reply that they had submitted the material. The wording 'it did not contain any material which would be regarded as infringing intellectual property rights' I contend, is an attempt to mislead. They knew, at that time, that they had submitted our material.

At that time I requested a copy of the January 2003 document that had been submitted. The Council refused on the grounds that 'should you have sight of this document this could be considered to give you an unfair advantage'. Again I contend that this was an attempt to mislead as the Council knew, at that time, that the document was the same document as the December 2002 document (which we had written and therefore already had sight of) with the sections relating to LDIC removed.

You will know of the prolonged and protracted process, involving the Freedom of Information Commissioner that I had to pursue in order to finally get a copy of the January 2003 document. Again I would contend that this was an attempt to obstruct and mislead about the contents of the amended document that was submitted.

The Council stated (at the time of the original complaint) that they had apologised to the University and that this apology had been accepted – and yet they refused to let me know to whom they had apologised – and (at that time) I was unable to find anyone at the University who had received and accepted an apology.

#### **Resolution of the Complaint (Mrs Church's letter section 5)**

I have suggested that the complaint can be resolved by an apology, formal acknowledgment of contribution and some arbitrated form of settlement (although I should like to make it clear that I am not seeking personal financial gain).

#### **Apology**

The Council accept that their actions have been 'unacceptable' and though they have 'indicated' this on a number of occasions, I am not sure if this is intended to be an apology. I think that some formal direct apology to the individuals involved is in order to resolve the complaint.

### **Acknowledgement**

The Council have agreed to 'ensure that partners involved in the development and delivery of the project will be acknowledged'. Again I am not sure if this constitutes acknowledgement of the very direct input that LDIC staff made to writing the bid documentation. I think, in order to resolve the complaint, that some form of direct and specific acknowledgement should be made to the individuals, who for many years, put in many hours of hard work to help produce the project documentation and bring the project to success.

Incidentally (I assume as part of this acknowledgement) I have received an invitation to the Launch Celebrations. I hope that this part of the 'acknowledgement' will be extended to Lynette Warren who also made an extensive contribution to the project.

### **Settlement**

I am delighted that the Council has 'learnt lessons' and will be revising its approach to collaborative working. I am therefore hopeful that some form of guidelines for ethical partnership working may be generated to ensure that there are no further bitter and acrimonious disputes.

However I think that the documentation obtained over the past couple of years leads to the conclusion that the Council did embark on a path of deception and subsequently to mislead. I do not think that this is acceptable, and I think that the Council should do something tangible to mark the settlement of the matter. The Butterfield Innovation Centre is a project developed with public funding, so I think that is appropriate that the Council should do something constructive, to benefit Luton, in order to effect something positive out of the dispute.

I would therefore like to suggest, finally, that in acknowledgement of the LDIC/ M Anstey/ L Warren/ contribution to the project, and in final settlement of the whole dispute that the Council should create an award, to be administered by the Prince's Trust, to give a disadvantaged young person, from Luton, a free space in the new Innovation Centre, for a period, in order that they may have the opportunity to start up their own small business. It could be called the LA (for Local Authority) InSpire award (also in recognition of where the successful pilot Innovation project was based).

### **In Conclusion**

I hope my conclusions coincide with your own – and that you may think that the actions proposed in resolution of the complaint are positive, constructive and fair under the circumstances.

I would be grateful for your thoughts on the matter.

Kind regards – Mike Anstey