



OFSTED slammed by Care Standards Tribunal

On 14 May 2015 the Care Standards Tribunal issued a decision in the case of *JS -v- Ofsted*, an appeal against a notice of cancellation of registration by a childminder. At the conclusion of Ofsted's case, after 5 days of evidence, Ofsted requested the permission of the Tribunal to withdraw its opposition to the appeal, meaning that it conceded that the notice of cancellation should be quashed. The Tribunal granted permission, and quashed the decision. However, in doing so the Tribunal was highly critical of Ofsted.

The Tribunal singled out for particular criticism Ofsted's attitude to disclosure of materials, observing that "*full disclosure of relevant material – relevant as it went to the reliability, credibility of key witnesses called by Ofsted, was not made until after the hearing commenced and only after an inquiry [by the Tribunal]*".

As well as issues concerning disclosure, a matter of enormous concern for the Tribunal was its assessment that the relevant Inspector "*had not conducted the investigation in a fair and open way, nor with the necessary forensic approach required*". The Tribunal concludes that in this instance the fear of all those faced with regulatory investigations was borne out- the Inspector did not approach the investigation with an open mind, but rather "determined, it would see, to find what was alleged".

The Tribunal records in the decision that "It must be apparent had leave not been sought to withdraw we would have allowed the appeal in any event." The Tribunal went even further recording that it was inviting Ofsted to write to the LADO at the relevant Council as well as the police, who had been involved, to ensure that they were made aware of the reasons why the appeal had been allowed.

The full decision can be accessed here: [Tribunal Decision](#)

This case demonstrates serious failings by Ofsted, and was "*an example of how not to conduct an investigation*" according to the Tribunal. The impact of the flawed investigation and proceedings on the appellant were noted by the Tribunal as "*devastating*". All regulated care providers can face extremely difficult times when they are subject to investigations. Seeking early specialist advice can help providers in dealing with the investigation and any Tribunal proceedings should these follow. At Lester Aldridge we have a team of [specialist lawyers](#) experienced in dealing with regulatory investigations, sanctions and prosecutions by Ofsted and other regulators.