

**The Local Government Ombudsman's
Annual Review**

Cheshire East Council

successor authority to the former Congleton Borough Council, the former Crewe & Nantwich Borough Council, the former Macclesfield Borough Council and (part of) the former Cheshire County Council

**for the year ended
31 March 2009**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

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Section 1: Complaints about the councils now covered by Cheshire East Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about the councils which are now covered by Cheshire East Council (Cheshire County Council, Congleton Borough Council, Crewe and Nantwich Council and Macclesfield Borough Council).

I hope that the review will be a useful addition to other information your authority holds on how people have experienced or perceived the services provided by the predecessor authorities.

Two appendices form an integral part of this review: statistical data for 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of telephone calls to our service has increased significantly since then to more than 3,000 a month. Our advisers now provide comprehensive information and advice to people who telephone, write or e-mail. It enables citizens to make informed decisions about whether to put their complaint to us.

This means that direct comparisons with some previous year-statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

In total we had 56 enquiries and complaints about the former Cheshire County Council in 2008/09, although it is important to note this covered a larger area than Cheshire East Council. Of these, 34 were forwarded to the investigation team. The biggest category for complaints forwarded was Education (19) of which 11 concerned education admissions, followed by Transport and Highways (7). The remaining categories each saw a small number of new complaints forwarded.

There were 14 contacts about Congleton Borough Council overall, and these resulted in 6 complaints forwarded for investigation.

Contacts about Crewe and Nantwich Council numbered 15, with 7 complaints forwarded for investigation, primarily about Planning and Building Control.

There were 28 contacts about Macclesfield Borough Council and 20 complaints were forwarded for investigation. Of these, 14 were about Planning and Building Control and 4 about Other matters.

Complaint outcomes

Reports

When we complete an investigation, we generally issue a report.

This year we issued one report about the former Cheshire County Council, which considered a one-off highways issue which is now within the boundaries of Cheshire West and Chester Council.

A report was also issued about Congleton Borough Council which found that the Council had consistently failed in its statutory duty to collect all the household waste put out by the complainant and did not respond effectively to his complaints or requests for an additional wheeled bin. After the complaint was referred to the Ombudsman the Council extended its recycling scheme to include the complainant's home. It also served a notice under Section 46 of the Environmental Protection Act 1990 setting out how the complainant should put out waste for collection.

Although it was clear that the complainant did not qualify for a second wheeled bin under the Council's policy, it required him to complete a form and then took six months before refusing his request having made no proper assessment of the volume of waste generated by his household.

The Council failed to respond to the Ombudsman's enquiries about the legal basis for its actions and gave a materially misleading account of specific advice it had received from the Department of Food and Rural Affairs (Defra).

The Council acted with maladministration in failing to collect his household waste, failing to respond effectively to his complaints, and in failing to make any proper assessment of the volume of waste generated by his household before deciding whether to provide a second wheeled bin.

The Council apologised to the complainant and it supplied him with a second bin for as long as he needs it and agreed to review its waste collection policies and practices and train its employees to avoid any recurrence of the problems experienced.

These are important lessons which I hope have informed the development of Cheshire East Council's new household waste collection policies and procedures.

Local settlements

We will often discontinue enquiries into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. For the former Cheshire County Council, 13.9% of complaints decided (5) ended in a local settlement. There was one settlement each for Congleton (25% of decisions) and Crewe and Nantwich (6.3%), and none for Macclesfield.

Looking at Cheshire County Council, there were two adult care local settlements. One resulted from the Council's failure to inform the complainant of a change in the relevant regulations about direct payments, which led to a financial loss. The Council agreed to pay £5,000. The other concerned how much the Council would pay towards residential care home fees when the complainant's income fell below the threshold. The Council reconsidered the matter and agreed to pay the full cost of the fees once the threshold was reached.

A highways complaint found that the Council had failed to undertake any repairs to a grass verge after the completion of a survey. The Council did the survey and made repairs. A further highways settlement related to a failure to clear planting from a strip of land which contained utilities and stop cocks for nearby homes. The plants were obstructing access to these essential services. The Council agreed to remove the shrubbery and replace it with grass.

The fifth settlement related to an education admissions appeal, where the panel and the parent had not been told that another child had been offered a place above the primary school admission limit, which potentially prejudiced the outcome of the appeal. The Council quickly agreed to offer a new appeal.

The local settlement for Congleton Borough Council concerned delay in repairing a street sign, which the Council agreed to repair.

The Crewe and Nantwich Council local settlement concerned a complaint that the Council had failed to give weight to the complainant's evidence about the use of a building close to their home and had not investigated the robustness of the evidence given by the building's owner. The Council agreed to investigate the issue thoroughly.

Of the 38 decisions made by Cheshire County Council during the year, six were on premature complaints which had been resubmitted to the Ombudsman because the person complaining was unhappy with the response they had received from the Council (15.8%). These six complaints resulted in one local settlement, 16.7% of the decisions made on resubmitted complaints. We made decisions on 17 complaints about Crewe and Nantwich Council, of which three were resubmitted premature complaints and one of which resulted in a local settlement. Of the 15 decisions we made about Macclesfield Borough Council, seven were on resubmitted premature complaints. None of these resulted in a local settlement. Decisions were made on two resubmitted complaints about Congleton Borough Council, neither of which led to a local settlement. Although based on a limited number of complaints, these figures suggest the complaints procedures for these councils were working satisfactorily.

Liaison with the Local Government Ombudsman

Both Cheshire County Council (20 days) and Congleton easily achieved the target of responding to formal enquiries within 28 days. Crewe and Nantwich (30 days) and Macclesfield (31.5 days) both missed the target. I hope that your new Council will be able to respond comprehensively within 28 days as this is important in helping us to provide a quality service to complainants.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I welcome this opportunity to give you my reflections about the complaints about the predecessor councils which my office has dealt with over the past year. I hope that you find the information and assessment provided useful when developing and seeking improvements to your Council's services. I look forward to developing an effective working relationship with your Council.

**Mrs A Seex
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June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a ‘statement of reasons’ for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council’s own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your local authority. We will keep you up to date through LGO Link as each development progresses but if there is anything you wish to discuss in the meantime please let me know.

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June 2009

Appendix 1: Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Formal/informal prematures: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the Ombudsman's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.-

Table 4. Average local authority response times 2008/09

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

LGO Advice Team

Enquiries and complaints received	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	2	1	0	1	4
Advice given	0	3	0	1	4
Forwarded to investigative team (resubmitted prematures)	0	1	0	2	3
Forwarded to investigative team (new)	0	1	1	1	3
Total	2	6	1	5	14

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	1	1	0	0	0	2	0	4

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	1	0.0
2007 / 2008	3	18.7
2006 / 2007	2	29.0

Average local authority response times 01/04/2008 to 31/03/2009

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	60	20	20
Unitary authorities	56	35	9
Metropolitan authorities	67	19	14
County councils	62	32	6
London boroughs	58	27	15
National park authorities	100	0	0