

**The Local Government Ombudsman's
Annual Review
East Devon District 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 East Devon District Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about East Devon District Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

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 calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's 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

Our Advice Team received a total of 57 enquiries and complaints about your Council in 2008/09. Planning and building control generated the most contacts, 33 in total, of which 27 were passed for investigation. Twelve other complaints across all other services areas were forwarded to the investigation team, either as new complaints or as re-submitted premature complaints. Six of these concerned housing matters. One complaint was forwarded for investigation in each of the service areas of public finance and transport and highways, and the remainder were about anti-social behaviour, drainage, and leisure and culture. Fifteen complaints were considered as premature, and advice was given in a further three cases.

Complaint outcomes

Overall, I decided 40 complaints against the Council during the year. In 13 of those I found no evidence of maladministration. I used my discretion not to investigate a further four. Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant. In seven cases I took the view that the matters complained about were outside my jurisdiction and so they were not investigated.

Reports

When we complete an investigation, we generally issue a report. This year we issued one reports against your Council.

This resulted from my investigation of two complaints about the way the Council handled an application for a certificate of lawfulness of existing use for a caravan site bordering the complainants' properties. I found that there was fault in the way the Council dealt with the application for a certificate of lawful use. In particular, the Council failed to have adequate regard to the information available to it and took into account irrelevant factors, with the result that an intensification of an existing use was authorised. Although I did not conclude that the Council should not have granted a certificate of lawful use I found that the conditions imposed on that certificate would have been different had the maladministration identified not occurred. The complainants were caused an injustice as the quiet setting of their properties has been affected.

In this case I recommended that the Council commission independent valuations of the complainants' properties on the basis of five caravan pitches compared to 47 now considered authorised and to pay them the difference between the valuations, if any, with a further sum of £250 to each household in recognition of their time and trouble in pursuing their complaints. I also recommended that the Council draw up guidance for staff dealing with applications for certificates of lawfulness.

My report was issued in March 2009 and I am currently awaiting the Council's response to my recommendations.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority 14 resulted in local settlements but I did not recommend a financial remedy in any of these cases.

Eleven of the complaints settled locally were about the same planning matter. The Council had failed to investigate the alleged commercial use of some stables and the grazing of horses on associated land. The Council agreed to carry out an inspection to assess whether commercial use was occurring, and to inform the complainants accordingly.

In another case, a complaint about anti-social behaviour was settled locally when the Council proposed mediation, which provided a satisfactory remedy for the complaint.

Responding to a complaint about housing allocations, the Council acknowledged that it had allocated a property to a homeless applicant which was not adequate for her needs. The Council responded to this by upgrading the complainant's status on the housing register to allow her to be re-housed more promptly.

A complaint about housing repairs was also settled locally when, after meeting with my investigator, the Council undertook an inspection in order to draw up a list of repairs and agreed to replace a damaged door to the complainant's home.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 34 complaints during the year. Your Council's average response time of 32.7 days is longer than last year's time of 27.4 days and now falls outside the 28 day target response time. A number of enquires on planning cases were considerably delayed, the

most significant of these taking 73 days, but faster responses in other cases in this service area reduced the average to 24.6 days. The response time on an enquiry about local taxation was 48 days. I would welcome the Council's efforts to meet the 28 day target and restore its performance to that achieved previously.

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 note your authority has not yet taken advantage of our training in good or effective complaint handling. There are cases we have upheld even though they have been through the Council's complaints procedure, and in light of the Council First initiative these courses may now be of interest to you. I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

The pattern of complaints against your Council would not appear to be unusual in the context of the number of transactions it handles on behalf of its citizens during a year. I am grateful for your willingness to settle complaints where it is appropriate.

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

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.

**J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

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	Housing	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	8	0	5	0	2	15
Advice given	0	0	1	1	1	3
Forwarded to investigative team (resubmitted prematures)	3	1	6	1	1	12
Forwarded to investigative team (new)	3	0	21	0	3	27
Total	14	1	33	2	7	57

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	2	14	0	0	13	4	7	40

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	34	32.7
2007 / 2008	18	27.4
2006 / 2007	12	26.4

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