

**The Local Government Ombudsman's  
Annual Review  
East Sussex 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 East Sussex County Council 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about East Sussex County 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

During this year 53 enquiries and complaints were received by our Advice Team; of these 35 were forwarded to the investigation team. The remainder were either passed to the Council to investigate or the complainant was provided with advice. The largest number of enquiries and complaints concerned Adult Care Services (16), of which 12 were forwarded to the investigation team. There were 14 enquiries and complaints concerning Education and 11 of these (including complaints about school admissions, school transport and special educational needs) were passed to the investigation team. There were 10 enquiries and complaints about Transport and Highways, eight of which were passed for investigation. Four other complaints, including two about Children and Family Services, were passed to the investigation team.

## Complaint outcomes

Often, during the course of our investigation, a council takes or agrees to take action that we consider to be a satisfactory response to the complaint. The investigation is then discontinued and is referred to as a local settlement. 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, four (11.4%) were local settlements.

In some cases, although there may be an element of fault in how a council has acted, I may use my discretion not to pursue an investigation. This might be because I do not think that a sufficient degree of injustice has been caused. But, even if I do not carry out an investigation, there may still be lessons for the council to learn from these complaints. This year there were 12 complaints where I exercised discretion and decided not to pursue an investigation.

In 19 of the complaints which I considered, I found there was no or insufficient evidence of fault by the Council to justify further investigation.

### **Adult Care Services**

I decided 10 complaints about the Council's adult care services. There were no local settlements although in one complaint the Council agreed to re-word a leaflet which was potentially misleading; the revised leaflet will make it clear that although the social services department aims to disclose all information held about service users, there may be circumstances when a request for information will be refused.

There were four complaints where I found there had been no fault by the Council. In one, I decided that the Council had acted appropriately when it refused to let a person with learning difficulties move to accommodation which would not have been suitable for their needs. In another I found the Council had taken appropriate action in relation to whether certain family members should be allowed unsupervised access to a vulnerable adult; the Council had offered mediation and advocacy to try to resolve the dispute.

### **Transport and highways**

I decided four complaints about Rights of Way. In two of them I found no fault and in the other two I agreed local settlements.

A home owner complained that when he purchased his house he was told that the access road was private and he was advised to buy access rights. He subsequently purchased the access rights for £500. A couple of years later he found out that the road carried full public vehicle rights and it had not been necessary for him to buy the access rights. He had written to the Council to complain but, a year later, he had not received a proper response. The Council accepted that he had been given the wrong information and it agreed to reimburse the £500. The Council also apologised for the way his complaint had been handled and paid him an additional £50 in recognition of his time and trouble.

In the other local settlement a resident thought that a road near his home was a private road and had put up signs stating it was a private road. The Council disagreed and thought the road was a public right of way. The Council removed the signs but had not returned them to the owner. I found no reason to disagree with the Council over the status of the road but I welcomed its agreement to return the signs to the owner.

### **Education**

I did not find fault in any of the school admissions complaints I investigated. But, of the three complaints which were about special educational needs, I agreed local settlements on two of them.

In one case, a child's placement in the school named in his statement had broken down after a number of difficulties occurred including bullying. Initially the child was treated as being off sick and then arrangements were made for him to have a limited amount of home tuition. However, he was not receiving suitable full time education as required by the law and I found that there had been about a four month delay by the Council in arranging an alternative school for him to attend. I welcomed the Council's agreement to pay compensation of £1,500.

In the other case, the Council's own complaints procedure had upheld a number of complaints including a delay in recognising that the existing placement was not working, a failure to recognise that action was needed and a failure to arrange respite care. But the complainants were then invited to make an insurance claim and, when this failed, they asked me to consider the matter further. This was an unusual case and to its credit the Council agreed to pay compensation of £3,000 in recognition of the three terms during which the child was not provided with suitable full time education.

### **Liaison with the Local Government Ombudsman**

The average time taken by the Council to reply to our enquiries was just over 24 days, much quicker than the average response time of 30 days last year. This places your Council within the 62% of county councils nationally who reply within my target timescale of 28 days.

### **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/effective complaint handling so 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 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.

**Tony Redmond**  
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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.

**Tony Redmond**  
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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	Adult care services	Children and family services	Education	Transport and highways	Other	Total
Formal/informal premature complaints	3	0	1	1	4	9
Advice given	1	2	2	1	3	9
Forwarded to investigative team (resubmitted prematures)	5	1	0	3	1	10
Forwarded to investigative team (new)	7	1	11	5	1	25
<b>Total</b>	<b>16</b>	<b>4</b>	<b>14</b>	<b>10</b>	<b>9</b>	<b>53</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	4	0	0	19	12	4	39

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

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	13	24.4
2007 / 2008	9	30.3
2006 / 2007	20	30.7

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