

**The Local Government Ombudsman's  
Annual Review  
Plymouth City 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 Plymouth City Council 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about Plymouth City 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 111 enquiries and complaints about your Council in 2008/09. Housing generated 24 contacts, of which 10 were considered premature and 11 were passed for investigation. Fifty other complaints were forwarded to the investigation team, either as new complaints or as re-submitted premature complaints. Twelve of these concerned planning and building control; seven were about education matters; five were about transport and highways; five were about benefits; two were about children and family services; and one was about public finance. Of the remainder, most were about either anti-social behaviour or waste management. Thirty-four complaints were considered as premature, and advice was given in a further 16 cases.

## Complaint outcomes

Overall, I decided 59 complaints against the Council during the year. In 33 of those cases I found no evidence of maladministration. I used my discretion not to investigate a further nine. 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 ten 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 report against your Council.

In this case, a solicitor acting for a couple selling their property applied to the Council to lift a restriction on the property so that they could transfer part of the land to their son prior to selling. The restriction was in the form of a section 106 agreement and so the Council needed to complete a Land Registry form. The solicitor had to contact the Land Registry on three occasions to seek an extension of time because of the Council's delay in completing the required form. As a result, the solicitor incurred extra costs.

I found that the Council had unreasonably delayed in completing the requested form and that the extra effort and costs incurred by the solicitor could have been avoided if the Council had properly explained at the outset the time that the process would take. I recommended that the Council make a payment of £400 to the complainant. I am pleased that the Council agreed to do so.

## 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 six resulted in local settlements and in four of these cases I asked the Council to pay compensation totalling £1000.

Two of the complaints settled locally were about planning applications. In one of these I found that the Council had taken four months to determine the complainant's listed building application and this delay had caused him to miss an opportunity to obtain a regeneration grant. Although the grant became available to him later, he had already started the building work. The Council agreed to pay the complainant £500 and to assist him in obtaining a grant if he was still minded to pursue this. The Council also implemented a procedural change in order to better manage the process in future.

In the second planning case, the Council had notified the complainant about a planning application but had given an incorrect description of the development. This meant that the complainant assumed he would not be affected by the proposal and so he did not submit objections. Although I found that the outcome of the application was unlikely to have been different had he objected, the complainant had a justifiable sense of outrage. In recognition of this the Council apologised and agreed to pay him £250. The Council had already examined its procedures to try to prevent a recurrence of this problem.

A complaint about housing benefit was settled locally when the Council agreed to pay the complainant £200. In this case there had been a delay of 18 weeks in submitting papers to the appeals service, as well as delays in replying to correspondence. This caused the complainant uncertainty and anxiety about his ability to pay his rent.

In a complaint about managing tenancies, the Council had agreed to provide details and dimensions of the garden associated with a property but it then changed its mind and failed to respond to the complaints it received about the matter. To settle the complaint, the Council agreed to meet the complainant to discuss the situation and to provide the dimensions of the garden as requested. It also offered an apology and agreed to pay the complainant £50.

Two complaints were settled locally without financial compensation. In the first of these, the Council had failed to explain how it had taken account of the complainant's mitigating circumstances in respect of a parking fine. It agreed to look again at the case and reconsider its

decision, and to inform the complainant of the consideration given to the mitigating circumstances. In the second complaint, about waste management, the Council responded promptly and positively by agreeing to meet the complainant and to undertake to ensure refuse would be collected as agreed.

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

Formal enquiries were made on 33 complaints during the year. Your Council's average response time of 32.6 days is only slightly improved on last year's figure of 32.8 days and remains outside the 28 day target response time.

In education, enquiries on one complaint about student support were responded to in 76 days. In housing most complaints were responded to within the target timescale but two cases about allocations had response times of 55 and 83 days respectively. Enquiries made on two complaints about children and family services were responded to in 56 days and 133 days, but I am aware that there were difficulties with the second of these cases which meant that the delay here was not entirely the Council's fault. In the service areas of planning and building control, transport and highways, benefits and anti-social behaviour, most responses met the target response time.

The Council should now make every effort to improve on its response times.

### **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 am pleased that during 2008/09 we provided training courses in Good and Effective Complaint Handling for staff from your authority.

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.

**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	Adult care services	Children and family services	Education	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	2	0	10	4	3	2	1	11	34
Advice given	0	0	0	3	1	1	2	0	9	16
Forwarded to investigative team (resubmitted prematures)	0	1	1	2	4	0	2	1	8	19
Forwarded to investigative team (new)	0	1	6	9	1	1	10	4	10	42
<b>Total</b>	<b>1</b>	<b>4</b>	<b>7</b>	<b>24</b>	<b>10</b>	<b>5</b>	<b>16</b>	<b>6</b>	<b>38</b>	<b>111</b>

## Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	1	6	0	0	33	9	10	59

## 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	33	32.6
2007 / 2008	29	32.8
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