

**The Local Government Ombudsman's  
Annual Review  
St Albans City and 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 St Albans City and District Council 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about St Albans City and 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

We received a total of 38 enquiries and complaints about your council in 2008/09, 55% of which (21) were about planning and building control.

There were 19 substantive complaints which were forwarded to the investigative team. This was made up of 11 complaints about planning and building control matters (nine about planning applications and two about planning advice), three complaints about housing, and one complaint each about local taxation, licensing, antisocial behaviour and miscellaneous matters.

## Complaint outcomes

I made 26 decisions on complaints against the Council: five were that the matter was not within my jurisdiction (usually because there was a remedy by way of a right of appeal which it was reasonable to expect the complainant to pursue). So, there were 21 decisions which were within my jurisdiction.

## 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. This may include such things as reconsideration of a decision, repairs carried out, policies reviewed, benefit paid, an apology or other action. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements.

I agreed local settlements in 11 of the cases within my jurisdiction, with remedies which included the payment in total £1,800 in compensation.

### Planning

Eight of the local settlements involved planning applications: four related to the same development which had been called in by a local councillor, which meant that the decision was to be made by the planning committee. Instead, permission was granted by officers under delegated powers.

The Council's fault was not in doubt as it had acknowledged its error. On discovering its mistake, the Council explained the legal position and that the decision still stood, but that any interested party could make an application for judicial review to have the decision quashed, that the Council would not oppose such an application and that it would be liable for the reasonable legal costs of the applicant. It also considered whether a revocation of its decision was appropriate and whether it should apply itself for judicial review. It decided not, because it felt that (but for the procedural flaw) its consideration had been appropriate and that if it had gone before a committee it would have been recommended for approval.

I did not consider that the way the Council addressed matters once the fault was discovered was unreasonable. The Council also confirmed that an internal investigation and major review of the processes involved were underway to identify improvements and to reduce the possibility of future process failures. It also improved the clarity of documentation used by officers. However, the complainants had lost the right to speak to the planning committee and have the matter properly decided there. I could not say that the identified fault affected the decision itself, but the Council agreed a payment of compensation to the complainants to reflect their loss of opportunity.

Two other complaints about different developments raised the same issues: applications which should have been called in to the planning committee were instead decided under delegated powers. Again I could not say that different conclusions would have been reached if the matters had been dealt with by the planning committee. The Council agreed to pay compensation, so I did not pursue the complaints further. I remain concerned that the same type of fault occurred with complaints about three different planning applications. I ask, therefore, for a progress report on the review of processes and the implementation of any agreed improvements.

Another complaint about a planning application concerned the application of the '45° rule', which is commonly used in the assessment of loss of light to a window and which the complainant said was breached to a significant extent. The Council's report on the matter said it was not breached, although later the Council accepted it was, but marginally. I asked a Council officer to attend a joint site meeting so that matters could be resolved, and I was disappointed that this was thought inappropriate. The measurements taken on site for me were closer to the complainants' measurements than those of the Council, and so I accepted there was a greater impact on the complainants than the Council had suggested. While I accepted the decision was unlikely to have been different, I concluded the Council should apologise to the complainants and compensate them for their time and trouble.

The final planning and building control settlement related to advice given when the complainant wanted to convert their garage to living accommodation. There was a condition restricting the use of the garage: the complainant said they were not told that they could apply to have this lifted. While I could not establish what had been said, there was no dispute that delay in responding to a query meant a higher fee for building regulations approval was payable. Here, the Council's agreement to accept a reduced fee seemed reasonable.

### Housing

The Council was at fault in failing to take an application to be accepted as homeless from the complainant when they left a tenancy through fear of violence, and the Council did not then properly follow matters up and delayed unreasonably in considering an application. This led to an apology, compensation and the Council's agreement to review procedures to ensure its legal obligations were met.

### Licensing

The licensing case concerned a taxi driver who was given a formal written warning about their behaviour, following a complaint which was not subject to proper investigation (including not asking the driver for their comments on the allegation). This had very serious potential consequences: a second upheld complaint could have led to the loss of their licence and livelihood. I considered the Council's actions were contrary to principles of good administration (and natural justice). The warning was removed, and the Council amended its procedures.

### Alcohol consumption in public areas

A complaint concerning the public consumption of alcohol related to poor wording of an information leaflet. A token payment was agreed for the complainant's time and trouble in pursuing the matter.

### **Other decisions**

There were six cases where I found no fault with the Council's actions.

Sometimes though the Council may be at fault I use my discretion not to pursue an investigation because there is no significant injustice to the complainant. At other times the substantive matter of the complaint may be outside my jurisdiction. This year I closed four cases using my discretion.

But there may still be lessons for the Council to draw from such cases. One such case involved a planning application for a change of use from commercial use to residential. Although the matter was largely outside my jurisdiction, I noted that the recordkeeping of the planning department in this case was poor. The Council did accept my views and explained that its recordkeeping would be improved by the introduction of a new computer system.

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

We ask Councils to respond to our enquiries within 28 days. The average response time for the 11 enquiries made to your Council was 26 days which is within my target.

### **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

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  
Local Government Ombudsman  
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Millbank Tower  
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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	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Other	Total
Formal/informal premature complaints	1	1	0	7	4	13
Advice given	1	0	0	2	2	5
Forwarded to investigative team (resubmitted prematures)	0	0	0	2	0	2
Forwarded to investigative team (new)	3	0	1	10	4	18
<b>Total</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>21</b>	<b>10</b>	<b>38</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	11	0	0	6	4	5	26

**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	7	26.0
2007 / 2008	16	33.0
2006 / 2007	10	34.1

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