

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

County Durham Council

successor authority to the former Durham County Council, the former Chester-le-Street District Council, the former Derwentside District Council, the former Durham City Council, the former Easington District Council, the former Sedgefield Borough Council, the former Teesdale District Council and the former Wear Valley 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 County Durham Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about County Durham Council. On 1 April this year the County Council assumed responsibility for the areas formerly served by the following district councils: Chester-le-Street Council, Derwentside, Durham City, Easington, Sedgefield, Teesdale and Wear Valley. As County Durham Council is now responsible for the communities formerly served by these councils this review is a summary of the complaints received and the complaints determined against each of these councils as well as the County Council. This information will, I hope, give the County Council some understanding of the likely number and the type of complaints it may have to deal with in 2009/2010 and beyond.

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

The County Council

The Commission received a total of 40 enquiries and complaints about the County Council during the year. Our Advice Team gave advice on eight occasions and determined that 12 potential complaints to me were in fact premature in the sense that it appeared that the County Council had not been given the opportunity to address the concerns of the citizens involved. Twenty complaints were forwarded to me for consideration. Fourteen of these complaints concerned either adult care services [5], children and family services [4] or education matters [5].

Chester-le-Street

We received a total of 14 enquiries and complaints about this council during the year. Our Advice Team gave advice on one occasion and determined four potential complaints to be premature. Nine complaints were forwarded to me for consideration. Six of these complaints were about planning matters.

Derwentside

We received a total of 24 enquiries and complaints about this council. Our Advice Team gave advice on two occasions and determined eight potential complaints to be premature. Fourteen complaints were forwarded to me for consideration.

Durham City Council

We received a total of 27 enquiries and complaints about this council. Our Advice Team gave advice on four occasions and determined seven potential complaints to be premature. Sixteen complaints were forwarded to me for consideration.

Easington

We received 28 enquiries and complaints about this council. Our Advice Team gave advice on four occasions and determined nine potential complaints to be premature. Fifteen complaints were forwarded to me for consideration.

Sedgefield

We received a total of 19 enquiries and complaints against this council. Our Advice Team gave advice on two occasions and determined seven potential complaints to be premature. Ten complaints were forwarded to me for consideration.

Teesdale

We received a total of five complaints about this council. Two of these complaints were deemed to be premature while three were forwarded to me for consideration.

Wear Valley

We received a total of 16 enquiries and complaints about this council. Our Advice Team gave advice on four occasions and determined three potential complaints to be premature. Nine complaints were forwarded to me for consideration.

In terms of the nature and the type of complaints made to me from across the County no trends or themes emerged to cause me any concerns.

Complaint outcomes

The number of decisions taken will differ from the number of complaints received because of work in hand at the beginning and at the end of the year.

The County Council	Total decisions	17
	Outside jurisdiction	1
	Closed at discretion of the Ombudsman	3
	No maladministration	10
	Local settlements	3
Chester-le-Street	Total decisions	7
	Outside jurisdiction	2
	Closed at discretion of ombudsman	1
	No maladministration	4
Derwentside	Total decisions	16
	Outside jurisdiction	1
	Closed at discretion of the	5

	Ombudsman	
	No maladministration	7
	Local settlements	3
Durham City	Total decisions	16
	Outside jurisdiction	1
	Closed at discretion of the Ombudsman	2
	No maladministration	9
	Local settlements	4
Easington	Total decisions	24
	Outside jurisdiction	2
	No maladministration	10
	Local settlements	9
	Public Reports	3
Sedgefield	Total decisions	9
	Outside jurisdiction	3
	No maladministration	2
	Local settlements	2
Teesdale	Total decisions	3
	No maladministration	2
	Local settlements	1
Wear Valley	Total decisions	8
	Outside jurisdiction	2
	Closed at discretion of Ombudsman	1
	No maladministration	2
	Local settlements	3

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.

The County Council settled 3 complaints during the year, all relating to education matters. In one case the Council arranged a fresh admission appeal and in another the child was offered a place at The complainant's preferred school. The Council agreed to pay compensation of £400.00 following a complaint about school transport and an allegation that the Council had failed to backdate a legitimate claim for the cost of school transport. The Council agreed to review the cases of 14 other families who had not complained to me but who were in similar positions.

Durham City Council settled 4 complaints and paid compensation in one case of £600.00 following the failure of a building control inspection to identify that an oil tank was in an incorrect position. In another case, a planning complaint, following a failure to comply with its officer delegation scheme within the constitution of the Council, the Council agreed to notify the County Council of my concerns to ensure that the constitution of the new county council is clear that where objections to a planning application are made by members of the public the scheme of delegation is absolutely clear and officers are clear about their powers of decision making.

Derwentside District Council settled 3 complaints and agreed compensation in one case of £650.00. This was a planning complaint in which the Council failed to give proper consideration to the likely impact of the proposed development upon the residential amenity of the complainant.

Easington District Council settled 9 complaints and agreed to pay compensation in 6 cases. The Council agreed a payment of £2,000.00 following a complaint that renovation work by the Council had caused the complainant and her terminally ill husband severe disruption and a great deal of noise, dust and fumes. The Council responded very promptly in this case, apologising to the complainants with flowers and payment of the compensation within a matter of days. I issued three reports against this council during the year and will comment on these further below.

Sedgefield Borough Council settled two complaints and paid compensation in each of £250.00 and £200.00 respectively. One complaint concerned a housing repair matter and the other a planning enforcement matter.

Teesdale District Council settled one complaint, about an antisocial behaviour matter, but was not asked to pay any financial compensation.

Wear Valley District Council settled 3 complaints. Two complaints concerned the failure by the Council to consider the impact of development and in one case the Council agreed to pay £250.00 in compensation. The third complaint was about a failure by the Council to consider the exercise of discretion to award a home loss payment. In this case the Council paid compensation of £750.00.

Reports

I issued three public reports in the County during this year all following complaints against Easington District Council. In fact one report covered three separate complaints from the same person all concerning the way in which the Council had considered the development of barns for residential use and the vehicular access to the development. The Council agreed to pay £500.00 compensation and I asked the Council to ensure that officers were properly trained to assess the technical aspects of similar developments.

Liaison with the Local Government Ombudsman

I ask all authorities to respond to my formal enquiries within 28 calendar days. Average response times for the County Council and the other councils for which it is now the successor authority were as follows.

County Council	16.6 days
Chester-le-Street	39 days
Derwentside	37.7 days
Durham City	24.4 days
Easington	19.5 days
Sedgefield	158 days [only one response]
Teesdale	28 days
Wear Valley	39 days

Training in complaint handling

I would like to take this opportunity to remind the Council that 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.

We have extended the range of courses we provide and 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 the Council my reflections about the complaints my office has dealt with over the past year. I hope that the Council finds the information and assessment provided useful in giving some indication of the likely volume and nature of contacts it may have with my office in the coming year.

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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	Benefits	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	2	1	0	3
Advice given	1	1	0	2	4
Forwarded to investigative team (resubmitted prematures)	0	0	1	1	2
Forwarded to investigative team (new)	0	5	0	2	7
Total	1	8	2	5	16

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	3	0	0	2	1	2	8

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	2	39.0
2007 / 2008	3	30.7
2006 / 2007	12	36.1

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