

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

**Worcestershire County Council**  
for the year ended  
**31 March 2010**

Local Government Ombudsmen (LGOs) provide 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, we aim to get it put right by recommending a suitable remedy. We also use 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 Worcestershire County Council 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about Worcestershire 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 2009/10 and a note to help the interpretation of the statistics.

## Enquiries and complaints received

In 2009/10 we received 54 enquiries and contacts relating to the council, compared with 66 complaints and enquiries in 2008/09. A total of 17 of these were about education, 12 about adult care services, eight about transport and highways, six about children and family services, two about planning and building control, one about housing, and eight others, including areas such as licensing and trading standards.

A total of 34 were passed to the investigative team (30 new complaints and four resubmitted premature complaints). We treated nine complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In a further 11 cases we gave the complainant advice.

## Complaint outcomes

We decided 38 complaints against the council during the year. In 23 cases we found no evidence of maladministration, and four complaints were outside my jurisdiction. In two further cases we exercised discretion not to investigate further. Typically these are cases where even though there may have been some fault by the council there is no significant injustice to the complainant.

## 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 2009/10, 26.9% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority nine were local settlements, representing 26.4% of complaints within jurisdiction decided. We recommended that the council should pay a total of £2,000 in compensation in 2009/10. In this letter I shall deal with some of the more noteworthy examples.

## **Complaints by service area**

### ***Adult care services***

We considered six complaints about this area in 2009/10 and the council agreed local settlements in two cases where we found fault. In one, the council failed to make clear that the support it was offering was temporary, and so raised the complainant's expectations. The council agreed to carry out a new assessment of need and signpost the complainant towards appropriate support. In the second, shortcomings in the investigation of allegations of abuse of the complainant's relative caused uncertainty, and the council did not carry out undertakings it had given to the complainant nor explain why some actions could not be carried out. The council agreed to apologise and to pay £500 compensation. In a third complaint, we identified shortcomings which had not in this case caused injustice, and as a result of this the council agreed to keep a written record of any advice on which it relies in deciding on direct payment amounts.

### ***Children and family services***

One complaint relating to this service area in 2009/10 was outside my jurisdiction, and we found no maladministration in a second. But in the third, the council supplied a fostering reference which did not make clear the circumstances of a child protection investigation. The council settled this complaint by meeting the complainants and agreeing a revised reference.

### ***Education***

As in previous years, 10 of the thirteen complaints about education related to school admissions. We found no maladministration in the way that appeals were conducted this year. The remaining three complaints related to special educational needs (SEN). In one of these cases the council took action during the course of the investigation which we considered settled the complaint. In this complaint, the council had, in line with its usual policy, withdrawn school transport provided for a child with SEN when the child reached the age of eight. Unfortunately the notification letter informing the parents of this went astray, and while this was not the fault of the council; the matter should also have been discussed at the SEN annual review meeting, when it might have been resolved. But the council did not attend this meeting, and there was also no evidence that it had given consideration to its SEN transport policy when the age based transport provision came to an end. I am pleased to record that the council did reinstate transport on a temporary basis as soon as it received representations from the complainant, and confirmed during the investigation that this would be a long-standing arrangement. The council also gave commitments to improve the information it provides to parents about its SEN transport policy, and to ensure the matter would be discussed at annual reviews. I am grateful to the council for its willingness to resolve this complaint promptly.

### ***Transport and highways***

In 2008/09, my predecessor issued a report against the council about a delay in adopting a main road built by a developer. The delay meant that the complainant lost the right to claim compensation. Other complainants had been similarly affected and most of these complaints were decided last year. Two complaints were not decided until this year. In both cases the council agreed to a valuation to determine the value of the lost compensation. In one case this came out at zero, but in the other it amounted to £13,000.

In another local settlement in this service area, the council agreed to maintain the highway to stop water flowing off the highway into a private drain, which was causing damage to a private road.

Although we considered that the costs of damage would best be settled in court, the council's failure to respond to the complainant's questions about how the situation had occurred had also caused unnecessary additional time and trouble in pursuing the matter. The council agreed to pay the complainant £150 compensation for this, and to confirm to the complainant the future arrangements for maintaining the highway, and how these would be monitored.

### ***Housing***

The council is not a housing authority but does in some circumstances have a housing duty, for example under the Children Act. We found that the council had not helped a homeless young person in circumstances where it should. Although the local district council helped in the interim, the complainant spent two months in varied or no accommodation and could not regularly attend college. The council readily accepted that it was at fault and agreed to pay compensation of £1,800, approximately equivalent to bed and breakfast costs for two months.

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

We made formal enquiries on 28 complaints this year. In the annual review for 2008/09, my predecessor expressed some concern that the council was still not meeting our 28 day target for responses, and asked the council to put in place mechanisms to respond to enquiries within our target time. Although in some cases the council has succeeded in doing this, notably in the area of school admissions, it has missed the target in 20 cases, a significant proportion of the complaints investigated. In two cases the council took more than three months to supply the information my officers had requested, and the overall average response time is 43.7 days, well outside our target. This performance is disappointing and I would urge the council to take steps to address this.

### **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. In previous years we have provided training in effective complaint handling and in complaint handling for social care to staff from your authority. 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 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 authority's services.

**Dr Jane Martin**  
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**Westwood Way**  
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**Coventry**

## Section 2: LGO developments

### Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

### New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in Barking and Dagenham, Cambridgeshire, Medway and Sefton. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at [www.lgo.org.uk/schools/](http://www.lgo.org.uk/schools/)

### Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

### Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at [www.lgo.org.uk/guide-for-advisers/council-response](http://www.lgo.org.uk/guide-for-advisers/council-response)

## **Training in complaint handling**

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

## **Statements of reasons**

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

## **Delivering public value**

We 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 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.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

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**June 2010**

# Appendix 1: Notes to assist interpretation of the statistics 2009/10

## 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.

**Premature complaints:** 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 either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

**Advice given:** These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

**Forwarded to the investigative team (resubmitted premature and new):** These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to 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 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 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 LGO 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 LGO'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 LGO'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 2009/10**

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

**LGO Advice Team**

<b>Enquiries and complaints received</b>	<b>Adult care services</b>	<b>Children and family services</b>	<b>Education</b>	<b>Housing</b>	<b>Planning and building control</b>	<b>Transport and highways</b>	<b>Other</b>	<b>Total</b>
Formal/informal premature complaints	1	3	0	0	1	2	2	9
Advice given	1	2	3	0	1	2	2	11
Forwarded to investigative team (resubmitted prematures)	0	0	0	0	0	1	3	4
Forwarded to investigative team (new)	10	1	14	1	0	3	1	30
<b>Total</b>	<b>12</b>	<b>6</b>	<b>17</b>	<b>1</b>	<b>2</b>	<b>8</b>	<b>8</b>	<b>54</b>

**Investigative Team**

<b>Decisions</b>	<b>MI reps</b>	<b>LS</b>	<b>M reps</b>	<b>NM reps</b>	<b>No mal</b>	<b>Omb disc</b>	<b>Outside jurisdiction</b>	<b>Total</b>
<b>2009 / 2010</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>23</b>	<b>2</b>	<b>4</b>	<b>38</b>

**Average local authority resp times 01/04/2009 to 31/03/2010**

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	28	43.7
2008 / 2009	42	33.4
2007 / 2008	24	34.1

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20