

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

**Bath and North East Somerset
Council**

**for the year ended
31 March 2008**

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 letters.

Annual Letter 2007/08 - Introduction

This annual letter provides a summary of the complaints we have received about Bath and North East Somerset 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 letter will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two attachments form an integral part of this letter: statistical data covering a three year period and a note to help the interpretation of the statistics.

Complaints received

Volume

We received 35 complaints against your Council, one fewer than last year. We expect to see fluctuations year on year.

Character

We received a total of 15 complaints about planning and building control which was two fewer than last year. We received three complaints about housing. The numbers of complaints about adult care services, education, public finance, transport and highways and other matters were broadly similar to last year.

Decisions on complaints

Reports and local settlements

When we complete an investigation we issue a report. Reports on three cases were issued against the Council this year. The first was on the funding of aftercare under section 117 of the Mental Health Act 1983 (a subject on which I had issued a special report in July 2003, that dealt with charging for accommodation provided as part of the aftercare of people leaving hospital).

In this case I considered the Council applied flawed criteria when discharging a complainant from section 117 aftercare, causing her and her family avoidable uncertainty and unnecessary distress. I am pleased however that the Council continued to pay the cost of my complainant's care pending the decision on her complaint and that it agreed to remedy the situation by reviewing the section 117 discharge criteria with the assistance of external legal advice. Once this review was complete it reassessed the complainant's need for continuing aftercare. It also made a payment of £250 to the complainant's family for their time and trouble pursuing their complaint.

The second report concerned complex planning enforcement matters. This complaint was made by a Conservation Group. I concluded that the Council's decision not to take enforcement action against the general industrial use of the site was reasonable and so I did not make a finding of maladministration in this respect. However, the Council took too long to investigate and resolve a number of other planning enforcement and environmental health issues at the site, resulting in the Conservation Group's avoidable frustration and outrage. I recommended that the Council should determine the outstanding matters without further delay and notify the Conservation Group of the outcome. I also recommended that the Council review its planning enforcement procedures to avoid a repetition of the errors identified and pay £500 compensation to the Conservation Group.

In the third case, a complainant alleged that the Council unreasonably threatened to take enforcement action against him; that it embargoed the use of his waste recycling facility; and that it incorrectly approved changes to the Local Plan that did not accurately reflect the approved use of his site. I recommended that the Council paid him £7,500 compensation, determined the planning enforcement issues at his site without further delay and inform him of the outcome, reviewed its planning enforcement procedures to avoid the repetition of the errors I identified and reviewed its procedures for the approval of pre-inquiry changes to the Local Plan.

A 'local settlement' is a complaint where, during the course of our investigation, the Council has agreed to take some action which we consider is a satisfactory response to the complaint. The investigation is then discontinued. In 2007/08 the Local Government Ombudsmen determined some 27% of complaints by local settlement (excluding 'premature' complaints - where councils have not had a proper chance to deal with them - and those outside our jurisdiction).

Four complaints were settled locally during the year. In one of those cases an adult care services user complained that the Council had failed to inform her that its payments for her telephone line rental would be ceasing. As a gesture of good will, the Council agreed to pay the telephone rental from June 2006 to January 2007.

Three complaints concerned planning applications. One concerned the failure to ensure planning permission granted to the complainant's neighbour was appropriately conditioned to prevent overlooking of the complainant's home. The Council agreed to make a compensation payment of £2000 to settle this complaint.

Two complaints resulted from the Council's failure to notify the complainants of planning applications. The first involved a planning application for a ventilation chimney and the situation was further compounded by reporting the application to the wrong Committee. The Council took steps to put things right by reporting the application to the correct Committee which took account of the complainant's comments. Planning permission was granted subject to negotiations on the possible relocation of the chimney or mitigation by landscaping. When relocation proved not to be possible, an acceptable landscaping scheme was agreed in March 2007.

In the second of these complaints, the complainant's property was not included in the local Land and Property Gazetteer resulting in him not being notified of a planning application. The Council undertook to notify the manager of the gazetteer of the error and made a payment of £100 to the complainant to settle this complaint.

A total of £10,350 was paid in compensation this year, including complaints subject to report.

Other findings

Thirty Four complaints were decided during the year. Four complaints were treated as premature and referred back to your Council so that they could first be considered through your Council's complaints procedure.

In a further three cases I took the view that the matters complained of were outside my jurisdiction. The remaining 20 complaints were not pursued because no evidence of maladministration was seen or because it was decided for other reasons not to pursue them, mainly because no significant injustice flowed from the fault alleged.

Your Council's complaints procedure and handling of complaints

The number of premature complaints (four) is well below the national average of 27%. This indicates that the Council's complaints procedure continues to be sufficiently visible to those who wish to complain.

Three complaints that had been determined as premature were resubmitted. One of those resulted in a local settlement, one was outside my jurisdiction and one I decided not to pursue. These numbers are too small for me to be able to draw any conclusions.

Liaison with the Local Government Ombudsman

Enquiries were made on 14 complaints during the year.

I welcome the improvement in your Council's average response time which was 32.6 days compared to 42.1 days in the previous year. But it remains disappointing that your Council is still not yet reaching our target of 28 days. I hope that your Council will make a determined effort in the coming months to effect further improvements.

My officers have noted that the Council's public access web page to planning applications is easy to use and that some responses on planning complaints have been particularly clear and detailed. They have also noted that responses to additional enquiries have received speedy responses, which was most helpful.

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. This year we carried out a detailed evaluation of the training with councils that have been trained over the past three years. The results are very positive.

The range of courses is expanding in response to demand. In addition to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution) we now offer these courses specifically for social services staff and a course on reviewing complaints for social care review panel members. We can run open courses for groups of staff from different smaller authorities and also customise courses to meet your Council's specific requirements.

All courses are presented by an experienced investigator so participants benefit from their knowledge and expertise of complaint handling.

I have enclosed some information on the full range of courses available together with contact details for enquiries and any further bookings.

LGO developments

We launched the LGO Advice Team in April, providing a first contact service for all enquirers and new complainants. Demand for the service has been high. Our team of advisers, trained to provide comprehensive information and advice, have dealt with many thousands of calls since the service started.

The team handles complaints submitted by telephone, email or text, as well as in writing. This new power to accept complaints other than in writing was one of the provisions of the Local Government and Public Involvement in Health Act, which also came into force in April. Our experience of implementing other provisions in the Act, such as complaints about service failure and apparent maladministration, is being kept under review and will be subject to further discussion. Any feedback from your Council would be welcome.

Last year we published two special reports providing advice and guidance on 'applications for prior approval of telecommunications masts' and 'citizen redress in local partnerships'. I would appreciate your feedback on these, particularly on any complaints protocols put in place as part of the overall governance arrangements for partnerships your Council has set up.

Conclusions and general observations

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.

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June 2008

Enc: Statistical data
Note on interpretation of statistics
Leaflet on training courses (with posted copy only)

Complaints received by subject area	Adult care services	Benefits	Children and family services	Education	Housing	Other	Planning & building control	Public finance	Transport and highways	Total
01/04/2007 - 31/03/2008	2	0	0	4	3	7	15	1	3	35
2006 / 2007	4	0	0	3	0	7	17	2	3	36
2005 / 2006	3	1	1	1	1	4	18	2	8	39

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2007 - 31/03/2008	3	4	0	0	9	11	3	4	30	34
2006 / 2007	0	3	0	0	12	8	8	8	31	39
2005 / 2006	0	6	0	0	13	10	1	7	30	37

See attached notes for an explanation of the headings in this table.

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2007 - 31/03/2008	14	32.6
2006 / 2007	20	42.1
2005 / 2006	18	35.9

Average local authority response times 01/04/2007 to 31/03/2008

Types of authority	<= 28 days %	29 - 35 days %	>= 36 days %
District Councils	56.4	24.6	19.1
Unitary Authorities	41.3	50.0	8.7
Metropolitan Authorities	58.3	30.6	11.1
County Councils	47.1	38.2	14.7
London Boroughs	45.5	27.3	27.3
National Park Authorities	71.4	28.6	0.0