

Local Government
OMBUDSMAN

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

Herefordshire 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 Herefordshire 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 46 complaints against your Council during the year, a slight decrease from last year and almost a third less than the total received in 2005-2006.

Character

Just over a quarter of complaints were about planning and building control matters, but the number and proportion of complaints about this area showed a continued decline. We received complaints about planning applications (six), planning enforcement (four) and building control (two). Fourteen complaints were about other matters and concerned environmental health (four), drainage (two), elections and electoral register (matters outside my jurisdiction, two), anti-social behaviour, cemeteries and crematoria, consumer affairs, land, leisure and culture and employment and pensions.

Seven complaints were received on transport and highways matters and concerned highway management (five) and parking (two), a broadly similar figure for the last two years.

We received four complaints about housing matters, an increased number from last year. These concerned managing tenancies (two), housing allocations and homelessness.

Complaints about benefits dropped by half, but the numbers involved are small.

Complaints received about other service areas included education (three) and public finance (three) We received no complaints about adult care services or children and family services.

Decisions on complaints

Reports and local settlements

When we complete an investigation we issue a report.

I issued one report against your Council last year. I found that the Council failed to give adequate reasons for granting planning permission for a smithy, stable, farrier's cottage and apprentice flat in the field adjacent to the complainant's property, which is in open countryside. Members granted planning permission for the development against the officers' recommendation and contrary to the Council's planning policies and national planning guidance. Of course, Members have the right to reject officer advice. But here I did not consider that Members had taken all relevant considerations into account and so had made a flawed decision. The complainant previously lived in an isolated rural spot surrounded by open fields. He will now live next to a commercial and residential development generating noise and traffic, with the prospect of further development in the future and a detrimental effect on his ability to sell his property. I recommended that the Council carry out a before and after valuation of the complainant's property and pay him the difference as compensation for the injustice

caused. I also recommended that, within six months of the date of my report, the Council should produce a good practice guide for Members on all aspects of planning decision-making and provide training.

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).

Three complaints were settled locally during 2007/2008.

In a complaint about environmental health, the complainant alleged that the Council carried out an unnecessary private water supply test at his former property without notifying him, despite the presence of a private sterilising system in his house. The Council then sent an invoice for £115.50 for the sampling and testing. The complainant objected to being charged for what he regarded as an unnecessary procedure, and as his water supply was classified as not requiring regular sampling or testing. I found that the Council failed to adhere to its procedures when it took the test water sample at the complainant's former home. The Council agreed to waive the cost of the test sample, in the particular circumstances of the complaint.

In a complaint about highway management, I found that the Council had given inadequate consideration to a complaint at stage three about the need for a highway access to be established between existing and new housing. I found that the Council's review panel had been inquorate and did not consider in full the matters referred to in the complaint. In response to my recommendation, the Council agreed to carry out a further stage three review by a fresh complaints panel comprising its new chief executive and two councillors who had not previously been involved with the issues mentioned. The Council also agreed to pay the complainant £100 for her time and trouble. The Council conducted the further Stage 3 review and informed her of the outcome.

In a complaint about the licensing of street collections, the complainant said the Council had acted unreasonably, unlawfully and in a discriminatory manner by refusing to grant a licence for street collections to the organisation he represented, because it did not have registered charity status or a local branch. He considered that the Council was operating an informal hidden policy, to the detriment of his organisation. I found that the way the Council interpreted its adopted policy on the licensing of collections was unclear, as was the specific criterion used by licensing officers when considering applications, and that this caused avoidable difficulty to the complainant. In response to my recommendation, the Council agreed to reconsider his request for a street collection licence. The Council also confirmed that it had amended its working approach to the consideration of applications for licences, until a planned review was completed.

Other findings

Five complaints were treated as premature and referred back to your Council so that they could first be considered through your Council's complaints procedure. The number and proportion of complaints treated as premature showed a continuing downward trend.

I took the view that three complaints were outside my jurisdiction because of the matters complained of. In two complaints, the complainants had alternative statutory rights of appeal. In one case, I did not see grounds to exercise my discretion to look into the events that dated back over twelve months.

Thirty-five complaints were not pursued because no evidence of maladministration was seen. I decided not to pursue the remaining complaints because no significant injustice flowed from the fault alleged and for other reasons.

Your Council's complaints procedure and handling of complaints

The proportion of complaints treated as premature last year was low and well below the national average of 27%. This suggests that the Council's complaints procedure is accessible and working well.

Two complaints concerning drainage and a planning application that had been referred back to the Council as premature were resubmitted. I found no evidence of maladministration in either of these complaints.

Liaison with the Local Government Ombudsman

Enquiries were made on 23 complaints during the year. The average response time of 23.1 days is now within my target timescale of 28 days. I congratulate your authority for the steady progress in the reduction of response times since 2005-2006. Your Council's achievement here has greatly assisted the work of my office and helped to minimise uncertainty for complainants about the progress of complaints.

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 by social care review panel members. We can run 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.

I note that your Council has not sent a representative over the last three years to the annual seminar run by my office for local authority complaints officers on the work of the Ombudsman and complaints handling. We receive very positive feedback on the content and value of the seminars. We will be sending out invitations in due course for this year's event and would welcome your authority's attendance.

LGO developments

We launched the LGO Advice Team in April 2008, 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, has 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 2007, which also came into force in April 2008. 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'. Again, 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.

J R White
Local Government Ombudsman
The Oaks No2
Westwood Way
Westwood Business Park
Coventry CV4 8JB

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	0	3	0	3	4	14	12	3	7	46
2006 / 2007	2	6	1	1	2	6	21	2	8	49
2005 / 2006	2	3	1	12	2	9	35	0	8	72

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	1	3	0	0	35	5	6	5	50	55
2006 / 2007	0	3	0	0	27	10	3	9	43	52
2005 / 2006	0	3	0	0	21	19	4	13	47	60

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	23	23.1
2006 / 2007	29	29.3
2005 / 2006	32	31.8

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