

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

Shepway 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 Shepway District Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Shepway 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

Our Advice Team dealt with 35 enquiries and complaints about your Council in 2008/09. Of these 12 related to complaints which we considered were premature, and we referred them to your Council for investigation. We gave advice to seven other enquirers on a variety of matters, including my jurisdiction. The remaining 16 complaints were passed for investigation, seven of which were resubmitted premature complaints. Planning and building control generated most contacts; 11 in total, five of which were passed for investigation. Of the other complaints passed for investigation, two complaints each were about antisocial behaviour, housing and local taxation.

Complaint outcomes

I reached decisions on 19 complaints in 2008/09. There were two complaints where I found no or insufficient evidence of fault by the Council to justify further investigation, and there were two complaints which fell outside my jurisdiction.

Local settlements

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. In

2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints I decided against your authority, which were within my jurisdiction, four (22%) were local settlements (compared with the 40% of complaints settled by your Council last year). These settlements resulted in the Council making payments totalling £500.

One of these complaints involved an officer giving the complainant permission to demolish a bus shelter outside their house, when the officer had no authority to give such permission. The Council decided that the bus shelter should be reinstated. It apologised to the complainant and agreed to pay £250 compensation and any reasonable costs of the earlier removal.

The other settlements involved delays by the Council. In a complaint about planning enforcement, the Council failed to respond in a reasonable time to correspondence about noise and smells from a pub kitchen. The Council agreed to pay the complainant £100. A second complaint concerned delay by the Council in responding to a Council mortgage holder's request that the Council consider hardship resulting from their mortgage payments. I asked the Council to pay the complainant £100 for this delay and to discuss how their hardship might be addressed.

The final complaint was about delay in responding to concerns about when Housing Benefit payments were transferred to a rent account. I settled the complaint on the basis that the Council paid £50 compensation.

Ombudsman's discretion

Sometimes though the Council may be at fault I use my discretion not to pursue the investigation; often because any fault did not result in any injustice to the complainant. But there still may be lessons for the Council to draw from such cases. This year I closed 12 cases using my discretion.

In two complaints about nuisance caused to neighbouring properties by lorries waiting with engines running on Council land, I asked the Council to update the residents on the status of the proposed sale of the land, to consider any evidence of nuisance that the residents may choose to submit and to consider using its powers to issue Penalty Charge Notices.

A third complaint concerned the absence of an Environmental Impact Assessment screening for a planning application. The Council took steps to amend its procedures to ensure that screenings and assessments are carried out.

Liaison with the Local Government Ombudsman

Last year I had commented adversely on the time taken to respond to enquiries from our office.

This year, the average response time improved from 58.0 days to 36.0 days. I understand also that this statistic was affected by delay on one complaint which required legal clarification. If this complaint were excluded from the statistics, the average response time for the remaining complaints is just inside the 28 days in which our office normally seeks a response.

I am very grateful for the efforts made by officers to improve response times to our office. I am aware that the Council has been making considerable efforts on this front, and my investigators have generally found the Council to be responsive to formal enquiries and helpful in dealing with other requests for information.

Training in complaint handling

I understand that the Council has established a pool of over 15 complaints investigators and am pleased that during 2008/09 we were able to provide training in Effective Complaint Handling to these officers.

I am also informed that the Council has allocated funding to train a further 30 officers in first line complaints handling during the present financial year, and is seeking to ensure that staff on the front line are sufficiently trained in seeking to resolve complaints at the earliest possible point.

We would welcome the opportunity to provide any further training which you may find of use, and I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I am encouraged by the positive steps taken by the Council over the past year in its handling of complaints. I am pleased at the positive progress on response times, and it may be that the reduction in local settlements is also a sign that the Council is resolving complaints more effectively before they reach our office.

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 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	Children and family services	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	3	0	0	5	1	2	12
Advice given	0	2	0	2	1	1	1	7
Forwarded to investigative team (resubmitted prematures)	0	0	1	1	1	0	4	7
Forwarded to investigative team (new)	0	2	0	1	4	0	2	9
Total	1	7	1	4	11	2	9	35

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	4	0	0	2	12	1	19

Average local authority resp 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	36.0
2007 / 2008	5	58.0
2006 / 2007	14	30.9

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 Parks Authorities	100	0	0