

**The Local Government Ombudsman's  
Annual Review  
Devon County 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.

# Contents of Annual Review

<b>Section 1: Complaints about Devon County Council 2008/09.....</b>	<b>3</b>
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	3
Liaison with the Local Government Ombudsman.....	4
Training in complaint handling.....	5
Conclusions.....	5
<b>Section 2: LGO developments.....</b>	<b>6</b>
Introduction.....	6
Council First.....	6
Statement of reasons: consultation.....	6
Making Experiences Count (MEC).....	6
Training in complaint handling.....	6
Adult Social Care Self-funding.....	7
Internal schools management.....	7
Further developments.....	7
<b>Appendix 1: Notes to assist interpretation of the statistics 2008/09.....</b>	<b>8</b>
<b>Appendix 2: Local authority report 2008/09</b>	

# Section 1: Complaints about Devon County Council 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about Devon 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 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 received a total of 53 enquiries and complaints about your Council in 2008/09. Education generated the most contacts, 19 in total, of which 14 were passed for investigation. Fourteen other complaints were forwarded to the investigation team, either as new complaints or as re-submitted premature complaints. Seven of these concerned transport and highways; three were about children and family services; two were about planning and building control and of the remainder one was about adult care services and one about consumer affairs. Thirteen complaints were considered as premature, and advice was given in a further 12 cases.

## Complaint outcomes

Overall, I decided 26 complaints against the Council during the year. In 13 of those cases I found no evidence of maladministration. I used my discretion not to investigate a further two. Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant. In five cases I took the view that the matters complained about were outside my jurisdiction and so they were not investigated.

## **Reports**

When we complete an investigation, we generally issue a report. This year we issued no reports against your Council.

### **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 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority six resulted in local settlements and in three of these cases I asked the Council to pay compensation totalling £5500.

Two of the complaints where I recommended a financial settlement were about social services, and one related to special educational needs.

In a complaint about adult social care, the Council's emergency duty team failed to properly respond to a request for the cancellation of home care services following the death of the complainant's father at home as a result of terminal illness. The emergency duty team acted inappropriately in insisting an ambulance be called and police attended the house with the understanding that foul play was suspected. This caused unnecessary distress to the complainant, and in recognition of its shortcomings in this case the Council agreed to pay £250.

In a complaint about children and family services, the Council failed to act on information available to it when care proceedings were under consideration, accepting at face value information it had obtained from the complainant's former partner. As a result of this, the contact between the complainant and his children was delayed by two years. The Council agreed to pay £2000 to the children and their father, with a further £250 paid to the complainant in recognition of time and trouble taken in pursuing the complaint. The Council also undertook to remind managers of the importance of thorough and robust responses to complaints at Stage 1 of the complaints process.

A complaint about special educational needs was settled locally when the Council agreed to pay the complainant £3000. In this case the Council had unreasonably raised the complainant's expectations that it would make a 52-week placement available to her son, had arranged holiday respite care at the last minute, had failed to make transition plans for the child's education, and had failed to make alternative provision out of county. The failings identified had led to uncertainty and considerable inconvenience for the complainant and her son.

Two complaints about school admissions were settled locally when places became available at the appropriate schools and no further remedy was considered necessary.

A complaint about residents' concerns in respect of traffic management matters was resolved when the Council set out a timescale for the introduction of traffic calming measures.

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

Formal enquiries were made on 23 complaints during the year. Your Council's average response time of 26.4 days is within the 28 day target response time. This is in part due to the number of complaints about school admissions where response times were generally 20 days or fewer. Enquiries on two complaints about children and family services showed an average response time of 35.5 days and a complaint about planning and building control was responded to after 48 days. I am very grateful for all the Council's hard work in this area.

## **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. 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.

I note your authority has not yet taken advantage of our training in good or effective complaint handling. There are cases we have upheld even though they have been through the Council's complaints procedure, and in light of the Council First initiative these courses may now be of interest to you. I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

## **Conclusions**

The pattern of complaints against your Council would not appear to be unusual in the context of the number of transactions it handles on behalf of its citizens during a year. I am grateful for your willingness to settle complaints where it is appropriate.

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 No 2  
Westwood Way  
Westwood Business Park  
Coventry  
CV4 8JB**

**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.

**J R White  
Local Government Ombudsman  
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CV4 8JB**

**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	Adult care services	Children and family services	Education	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	2	3	1	2	3	2	13
Advice given	0	0	5	1	2	4	12
Forwarded to investigative team (resubmitted prematures)	1	0	0	1	2	1	5
Forwarded to investigative team (new)	0	3	14	1	5	0	23
Total	3	6	20	5	12	7	53

## Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	6	0	0	13	2	5	26

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	23	26.4
2007 / 2008	11	27.2
2006 / 2007	19	26.1

## Average local authority resp times 01/04/2008 to 31/03/2009

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