

**The Local Government Ombudsman's  
Annual Review  
East Riding of Yorkshire  
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 East Riding of Yorkshire Council 2008/09.</b>	<b>3</b>
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	4
Liaison with the Local Government Ombudsman.....	6
Training in complaint handling.....	6
Conclusions.....	6
<b>Section 2: LGO developments.....</b>	<b>7</b>
Introduction.....	7
Council First.....	7
Statement of reasons: consultation.....	7
Making Experiences Count (MEC).....	7
Training in complaint handling.....	7
Adult Social Care Self-funding.....	8
Internal schools management.....	8
Further developments.....	8
<b>Appendix 1: Notes to assist interpretation of the statistics 2008/09.....</b>	<b>9</b>
<b>Appendix 2: Local authority report 2008/09</b>	

# Section 1: Complaints about East Riding of Yorkshire Council 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about East Riding of Yorkshire Council.

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 telephone calls to our service has increased significantly since then to more than 3,000 a month. Our advisers now provide comprehensive information and advice to people who telephone, write or e-mail. It enables citizens to make informed decisions about whether to put their complaint to us.

This means that direct comparisons with some previous year-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

The number of enquiries and complaints about the Council made during the year totalled 108. Our Advice Team gave advice on 17 occasions and determined that 38 complaints were premature in the sense that the Council appeared not to have been given a reasonable opportunity to address the complaint through its own complaints procedure. Eighteen complaints were re-submitted to me by complainants unhappy with the way in which the Council had considered their complaint. Thirty five new complaints were also forwarded to me. The total of 53 complaints forwarded to me broke down as follows in terms of subject matter:

Adult Care Service	2
Children and Family Services	7
Benefits	1
Education	3
Housing	8
Planning and Building Control	17
Public Finance	6
Antisocial Behaviour	3
Land	3
Drainage	1
Leisure and Culture	1
Miscellaneous	1

## Complaint outcomes

I determined 70 complaints against the Council during the year, a figure which differs from the number of complaints received because of work in hand at the beginning of the year.

**Planning and Building Control** complaints formed the largest single group of decisions taken against the Council during the year amounting to 26 in total. Of these, 17 were determined on the basis that there was little or no evidence of maladministration by the Council while in four cases I exercised the general discretion available to me not to pursue the complaint. One complaint was outside of my jurisdiction. The remaining four complaints were all settled by the Council having accepted that something had gone wrong to cause the complainant some injustice.

One complaint concerned the failure of the Council to take enforcement action against a developer who was required to provide an on site wheel washing facility. Neighbours complained that the vehicles were simply being washed on the road and that the effect was to leave their roads very muddy. The Council agreed to review the standard use of this type of condition.

Another planning complaint arose after the Council allegedly failed to respond to the complainant's letter of enquiry. The Council agreed to visit the complainant and to respond to his letter.

The third settled planning complaint arose when the Council allegedly failed to take into account letters of objection when considering a planning application. The letters had been submitted to the Council and were received by the Environmental Protection Department and not passed on to the Planning department. As a consequence the objections formed no part of the Council's consideration of the application. I asked the Council to pay £150.00 to the complainant for her time and trouble in bringing her complaint to me. I also asked the Council to review its practices and procedures in light of this complaint and I asked the Council to consider how it would have acted if it had taken the objections of neighbours into account. As the objections related largely to issues of storage of waste and access I asked the Council to consider what powers it had at its disposal in the event of problems arising from the development.

The final planning complaint settled by the Council was a complaint from residents who were approached by the Council and advised that they owned trees close to their homes and that because there was risk of danger to the highway from the trees, residents would have to arrange and pay for the work. Local residents agreed that the trees and a hedge posed a problem but they denied ownership of the trees. Disputed ownership of land is not a matter for me but more properly a matter for the Court. However the Council agreed to cut back the hedge and trees in question and to undertake an annual inspection of the site, whilst the issue of ownership remains undetermined to avoid a repetition of the problems which led to the complaint to me. Given the uncertainties of the ownership of the trees the response of the Council was a generous and positive approach.

I would like to refer to a further planning complaint considered during the year which I closed exercising my general discretion but which caused me some concern. I was concerned that the Council in this case had not properly considered the likely impact of development upon the residential amenity of the complainant, a near neighbour to the development site. Although I did not believe that, in this instance, the absence, from the report of the officer, of any reference to the amenity of neighbours had a material impact upon the decision taken by the Council to approve the development, I did ask the Council, in future, to ensure that planning officers evidence more clearly in their reports the fact that the residential amenity of neighbours has been taken into account.

After Planning and Building Control complaints, the next largest group of decisions against the Council concerned **Housing** matters. I determined 10 complaints about housing matters during the year. Two of these complaints were outside of my jurisdiction while in two other cases I exercised my general discretion not to pursue the complaints. I found no evidence of maladministration in three cases and the Council agreed to settle the remaining case. This case concerned the way in which the Council had reviewed the position of the complainant on the Council's housing waiting list and an allegation that the Council had failed to reply to letters from the complainant. The Council agreed to arrange for the complainant to appeal for reinstatement on the waiting list from the original application date.

I determined six complaints during the year concerned with **Children and Family Services** while I exercised my discretion not to pursue two other complaints. The Council agreed to settle four complaints. In one case the Council agreed to pay £1,000 compensation to grandparents accepting that it had failed properly to communicate with them about the care of their granddaughter. The Council readily acknowledged its fault. The Council is entitled to know that, following their complaints to me, the grandparents were highly complimentary about the way in which the Council was then dealing with them.

In another complaint the Council agreed to pay £150.00 to a complainant who alleged that his human rights had been breached by social workers looking at risk to his children. The Council did not, in fact, do a great deal wrong in this case but the apology sent to the complainant was poorly worded and lacked any sincerity. I would ask the Council to try in future to ensure that any letter of apology sent to a citizen is written and signed by a senior officer and conveys sincerity.

The remaining two complaints in this category concerned relatively minor matters and did not require the Council to pay any compensation.

I determined only two complaints about **Benefits** matters this year but in both cases the Council agreed to settle the complaints. The first complaint arose after the Council advised the complainant that he was exempt from Council Tax, even after this had been queried. The Council reimbursed the complainant money he had already paid but then sent a demand for £1500 when it realised its mistake. The Council agreed to pay a small sum of compensation in this case and to accept a reasonable payment scheme with the complainant.

The second benefits complaint settled by the Council arose when the complainants liability for Council Tax was wrongly assessed but the Council readily accepted that it acted in error and as soon as the Council received my letter of enquiry it accepted that the account of the complainant was actually in credit.

Other complaints settled by the Council concerned an **Environmental Health** matter and an **Antisocial behaviour** matter. In the first case the Council apologised to the complainant for its delay in monitoring the noise from a day nursery close to the complainant's home and agreed a pattern of noise monitoring over the summer months. In the second case the Council resolved the problem of antisocial behaviour by moving the offending neighbour before my investigation got underway.

I commend the Council for agreeing to settle complaints when it has become apparent that something has gone wrong but I reiterate the point already made that apologies need to be sincere and credible.

The Council will be interested to know that 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 13 were settled locally and this equates to 20.3% of the decisions made and which were within my jurisdiction. I draw no conclusions from this figure as it is a relatively small sample but it is a figure the Council might wish to reflect upon.

## **Reports**

I issued no reports against the Council during the year.

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

I ask all councils to reply to my enquiries with 28 calendar days. I am pleased to note that, on average, the Council replied to enquiries from my office within 18.9 days. This marks a significant improvement over the previous year's figure of 25.3 days which was itself a commendable performance. I am grateful to the Council for the obvious effort taken to reply to my office as speedily as possible.

### **Training in complaint handling**

As the Council will be aware part of our role is to provide advice and guidance about good administrative practice. We continue to 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.

We have, this year, 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 Council's services.

**Mrs A Seex  
Local Government Ombudsman  
Beverley House  
17 Shipton Road  
YORK  
YO30 5FZ**

**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.

**Mrs A Seex  
Local Government Ombudsman  
Beverley House  
17 Shipton Road  
YORK  
YO30 5FZ**

**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	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	2	4	0	5	1	4	13	2	7	38
Advice given	5	2	2	2	0	2	1	2	1	17
Forwarded to investigative team (resubmitted prematures)	1	1	0	3	1	1	6	0	5	18
Forwarded to investigative team (new)	1	6	3	5	0	5	11	0	4	35
<b>Total</b>	<b>9</b>	<b>13</b>	<b>5</b>	<b>15</b>	<b>2</b>	<b>12</b>	<b>31</b>	<b>4</b>	<b>17</b>	<b>108</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	13	0	0	34	17	6	70

**Average local authority response 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	20	18.9
2007 / 2008	44	25.3
2006 / 2007	41	31.9

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 park authorities	100	0	0