

The Local Government Ombudsman's Annual Review

Cornwall Council

successor authority to the former Cornwall County Council, the former Caradon District Council, the former Carrick District Council, the former Kerrier District Council, the former North Cornwall District Council, the former Penwith District Council and the former Restormel Borough 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

Section 1: Complaints about Cornwall Councils 2008/09	4
Introduction	4
Enquiries and complaints received	5
Complaint outcomes	5
Liaison with the Local Government Ombudsman	7
Enquiries and complaints received	8
Complaint outcomes	8
Liaison with the Local Government Ombudsman	9
Enquiries and complaints received	10
Complaint outcomes	10
Liaison with the Local Government Ombudsman	10
Enquiries and complaints received	11
Complaint outcomes	11
Liaison with the Local Government Ombudsman	12
Enquiries and complaints received	13
Complaint outcomes	13
Liaison with the Local Government Ombudsman	13
Enquiries and complaints received	14
Complaint outcomes	14
Liaison with the Local Government Ombudsman	14
Enquiries and complaints received	15
Complaint outcomes	15
Liaison with the Local Government Ombudsman	15
Training in complaint handling	16
Conclusions	16
Section 2: LGO developments	17
Introduction	17
Council First	17
Statement of reasons: consultation	17
Making Experiences Count (MEC)	17
Training in complaint handling	17
Adult Social Care Self-funding	18
Internal schools management	18

Further developments.....	18
Appendix 1: Notes to assist interpretation of the statistics 2008/09.....	19
Appendix 2: Local authority report 2008/09	

Section 1: Complaints about Cornwall Councils 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about the former councils in Cornwall. We have included comments on the performance of each authority and complaint-handling arrangements, where possible, so they can assist your Council with service improvements.

I hope that the review will be a useful addition to other information your authority holds on how people experienced or perceived the services of the predecessor authorities.

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.

Cornwall County Council

Enquiries and complaints received

Our Advice Team received 65 complaints and enquiries during the year. These were spread across the Council's services with 15 concerning adult care services and 13 about highways, which includes parking. Significant numbers were also received about children and family services (10) and education (six). These areas also comprised the majority of the complaints forwarded to the investigative team. All other service areas generated a total of 21 enquires and complaints.

We treated 23 of all the complaints and enquiries received as premature and in a further 12 cases advice was given (usually to make a complaint direct to the Council). The remaining 30 complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 38 complaints against the Council during the year. In 15 of those cases (39%) I found no evidence of maladministration. I used my discretion not to investigate a further five. 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 two 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 one report against the Council. It concerned child protection matters and I decided it was not in the interests of the complainant to publish the report. The Council agreed to pay compensation of £2250 to the complainants.

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 against Cornwall County Council 15 were decided as local settlements and I asked the Council to pay compensation of £9,400 in total.

Complaints by service area

Children and family services

I decided seven complaints about children and family services. One was the report I refer to above and in two I decided there was no maladministration. The other four all reached a satisfactory local settlement.

Three complaints concerned the provision of foster care services. One case involved a child in foster care, where there were shortcomings in the Council's consideration of the complaint about her request to move from the foster home. The Council accepted that it should have responded more actively to the complainant's requests to move and its failure to do so may have contributed to her assault on the foster carer. The Council suggested a payment of compensation of £500 which I considered to be reasonable.

Another complaint concerned various failings to provide an appropriate level of services to a foster/pre-adoption family. The investigation identified other faults in the process including delay. The Council agreed to pay compensation of £3000 for the significant injustice suffered. In another complaint concerning the fostering service a grandparent complained about the care of his grandchild while in foster care. The Council agreed to pay the grandparent £500 compensation and to provide counselling for the child.

The last complaint in this category concerned an application by the complainants for a residence order but there was delay by the Council in replying and signposting the complaint process. In response to my enquiries the Council agreed to formally consider the complaint which I considered to be a satisfactory local settlement.

Adult Care Services

I decided nine complaints about adult care service. In two I decided there was no maladministration and one I considered the complainant had an alternative means of having the complainant considered by appealing to a court. In two cases I used my general discretion not to investigate the complaints. The other four all reached a satisfactory local settlement.

In one case I considered that the Council had applied its adult protection procedures without due regard to the principles of natural justice. It was not possible to say whether the failings in the investigation of the allegations against the complainant would have made any difference to the eventual outcome but the complainant was left with a sense of uncertainty. The Council agreed to apologise to the complainant and to acknowledge formally that the allegations were unproven. We also asked the Council to review the Adult Protection Procedure: it considered that it did not “own” the procedure but agreed to refer my view to the multi-agency partnership to consider.

In another case the Council gave the complainant a figure for the cost of the complainant’s stay in a residential home for respite care. After a hospital stay the complainant looked into a permanent placement but the Council reassessed her contribution yet did not tell her that there was a significant increase. The Council recognised in its own consideration of the complaint that there had been fault but did not initially consider it should award compensation. However, it readily agreed to do so in response to my suggestion of a payment of £500.

One complaint concerned an elderly woman who was in residential care. I concluded that the Council had failed to protect her from reported financial abuse. In response to my recommendations the Council readily agreed to pay compensation of £1000 and demonstrated that procedures had been revised in the light of the complaint.

Another complaint concerned an elderly person who was in residential care. The Council had investigated the complainant because of allegations of possible abduction and abuse of the elderly person. The Council had considered the complainant’s complaints about the investigation through its own complaints procedure but had been handicapped in that process as the complainant had not provided a key tape-recording of an interview by social workers with the elderly person. I considered, and the Council readily accepted, that in the light of the new evidence it should write to the complainant exonerating him and should reinvestigate the new evidence.

Transport and Highways

I decided eight complaints about transport and highways. In five I considered there was no maladministration and the remaining three were settled.

Two linked complaints concerned how the Council treated a request by a District Council to remove a no cycling sign on a footpath. The District Council owned the subsoil of the path and wanted to permit cycling. There were not any major shortcomings here but I considered that the Council was mistaken in concluding that the District Council had not yet authorised cycling on the path when in fact it had. The Council agreed to carry out a safety audit about the shared use of the path and to notify the District Council of the outcome.

The other complaint concerned delay by the Council in progressing a satisfactory payment arrangement with a developer for a highway junction reconstruction. The Council agreed to pay the complainant compensation of £400 in recognition of his time and trouble and worries about the safety of the junction. It also undertook to reach a decision on what action it would take if it could not reach a satisfactory agreement with the developer.

Education

I decided eight complaints about education. In four I decided there was no maladministration and in one I used my general discretion not to investigate it further. The other three were all settled.

One concerned an application for a place at a secondary school for the complainant's child. I considered that the complainant had not been given the school's case by the admission authority in due time. The Council agreed to a fresh appeal hearing.

In another case I concluded that the Council based its decision to refuse assistance with school transport on incorrect information. The Council agreed to provide school transport.

And the last case concerned a boy with special educational needs and related, primarily, to the provision of speech and language therapy although there were other failings. The Council considered that this was mainly a matter for the Primary Care Trust but nonetheless agreed to pay compensation of £1000.

Other services

The other six complaints concerned environmental health, leisure and culture and waste management. There was one other local settlement here which concerned noise nuisance and storage issues from a waste skip-hire business. There was fault in the way conditions on the planning permission were drafted rendering them unenforceable. The Council agreed to offer the complainant a noise survey (which was a repeat of an offer made before which the complainant had not taken up) and to pay compensation of £250.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 25 complaints during the year. The Council's average response time was 36 days. That was an improvement on the previous year but remained outside the 28 days requested. I note that responses to enquiries on complaints about adult care services were particularly delayed with an average response time of 52 days

Caradon District Council

Enquiries and complaints received

Our Advice Team received 48 complaints and enquiries during the year. By far the most contacts received related to planning and building control with 31.

Eleven of all the complaints and enquiries received were treated as premature and in seven cases advice was given, mainly to make a complaint direct to the Council. The remaining complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 35 complaints against the Council during the year. In 11 cases I found no evidence of maladministration. One complaint was outside my jurisdiction and in eight I used my discretion not to investigate.

Reports

I issued three reports against the Council (one of which concerned two complaints about the same matter). All related to planning matters.

In one case the Council failed to notify the complainant of a planning application. There was also delay in considering the planning application and in investigating reported breaches of planning control. The Council agreed to pay compensation of £1000.

In another case the Council granted planning permission for a new dwelling outside the area allocated for development in the Local Plan. Members did not take account of government guidance and were influenced by irrelevant factors. Without these faults the application would have been refused. The complainants believed that the new development would have an adverse impact on their property and the viability of their caravan site. The Council did not accept that there had been maladministration but agreed to pay £250 compensation and to commission the District Valuer to carry out a valuation of the complainant's property based on its value with and without the permitted development. The Valuer found there was no difference in value.

A complaint was brought by two people who were affected by the decision to grant planning permission for a parking platform adjacent to their homes. The Council failed to properly consider a relevant local plan policy when granting planning permission. This flawed decision led to it being unable to oppose a further application which it then granted. The Council was reluctant to agree to my recommendation of a valuation of each of the complainants' homes with and without the permitted development but did do so. The loss in value was determined to be £5,000 in one case and £10,000 in the other. The Council agreed to pay these sums and a further £500 for their time and trouble in bringing the complaint.

Local settlements

Of the complaints against Caradon District Council 11 (31%) were decided as local settlements and I asked the Council to pay £5518 compensation in addition to the £17,250 paid as a result of the issued reports.

Two complaints which were settled related to land. In one case the Council failed to respond to a complaint we had referred to it as premature. To settle the complaint it apologised but no further action was necessary as the Council had now reached a reasonable decision. In the other case the complainant wanted to purchase a small plot of council-owned land adjacent to her house and build a house on it. The Council gave them a price but when the land was later advertised for sale it was at a much higher price. I did not consider that the Council was at fault in increasing the price in view of its legal duty to get the best price for the land, but there was a delay which meant that the complainant incurred costs which she would not otherwise have done. The Council agreed to pay compensation of £210.

Eight of the complaints that were settled related to planning matters but four of these were on the same issue. That complaint concerned the grant of planning permission for two local needs houses. There was no maladministration in the decision itself but there was some fault in the follow up of enforcement issues on the site and in keeping residents informed. The Council agreed to pay compensation of £100 to each of the four complainants.

In one case the Council failed to notify the ward Member of a Parish Council objection to a planning application for erection of a domestic garage on neighbouring property. The complainant had justifiable outrage and time and trouble in pursuing the complaint, but the mistakes did not call into question the planning decision itself. The Council paid the complainants £250.

In another case the complainant lived in an Area of Outstanding Natural Beauty with a valley view. The Council approved a planning application for a tile pitched roof garage in land opposite the complainants home but did not notify him as it should have done. The Council also had no site notice policy. I did not consider that the outcome of the planning application would have been any different had the maladministration not occurred but the complainant had suffered an injustice and the Council paid £250 in recognition of that.

In another case, the complainant's neighbour erected a balcony. The Council invited a planning application which it refused. The complainant then expected the Council to take planning enforcement action but, based on legal advice, the Council decided that the balcony was in fact permitted development and enforcement action was not possible. There was no fault in the decision that the development was permitted development but in inviting and refusing a planning application the Council had raised the complainant's hopes that action would be taken. In recognition of that the Council paid compensation of £250.

In the last of the planning complaints to be settled locally I concluded that there was maladministration by the Council in its consideration of the complainant's planning application for an extension. I considered that it should have realised that the proposed development was in fact permitted development because the applicant had made it clear that an existing porch was to be demolished. There was further maladministration in that pre-application advice given before the second application was submitted also did not recognise that the complainant could use permitted development rights. The complainant who suffered increased costs of abortive work (because he had started on the pitched roof the Council wanted and took it down and replaced it with the flat roof he could have built at the outset). The Council agreed to pay compensation of some £3,000.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 23 complaints during the year. The Council's average response time was 41 days, a slight improvement on the previous year but still well outside the 28 days requested.

Carrick District Council

Enquiries and complaints received

Our Advice Team received 30 complaints and enquiries during the year. The service which generated the most contacts by some margin was planning and building control with 18.

We treated eight of all the complaints and enquiries received as premature and in a further six cases advice was given. The remaining complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 17 complaints against the Council during the year. In seven of those cases I found no evidence of maladministration. I used my discretion not to investigate a further three. Three cases were outside my jurisdiction.

Local settlements

Of the complaints against Carrick District Council four (24%) were decided as local settlements and I asked the Council to pay £2800 compensation in total.

The majority of my decisions related to planning matters (11) and all four local settlements were in this category. Two linked complaints concerned the failure to enforce a condition to landscape a buffer strip between a college car park and the complainants' private road. This resulted in students parking in the private road for two years. The Council agreed to erect a temporary fence until a permanent solution was implemented and established, and to pay compensation of £400.

In another case the complainant, a developer, tried to get advice before submitting a planning application for a commercial and residential development of a site, but the Council failed to reply so the complainant submitted planning applications. The Council quickly agreed to pay compensation of £750 for its failure to provide the advice, contrary to its procedures.

In the last complaint the Council failed to notify the complainant of a planning application for development on neighbouring land. Nor did it explain accurately to Members the impact the development would have on the complainant's property. The Council apologised to the complainant and agreed to pay compensation of £1250 for the uncertainty he was left with as to whether the outcome may have been different. The Council also promptly negotiated with the developer to alter bedroom windows to decrease overlooking.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 10 complaints during the year. The Council's average response time was 44 days which was a marked downturn from the previous year and well outside the 28 days requested.

Kerrier District Council

Enquiries and complaints received

Our Advice Team received 37 complaints and enquiries during the year. By far the most contacts were about planning and building control which produced 25.

We treated 11 of all the complaints and enquiries received as premature and in three cases advice was given. The remaining complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 22 complaints against the Council during the year. In 10 cases I found no evidence of maladministration. Four cases were either outside my jurisdiction or I decided that I should not investigate them.

Local settlements

Of the complaints against Kerrier District Council eight (36%) were decided as local settlements and I asked the Council to pay £4150 compensation in total.

As would be expected given the profile of complaints most of my decisions related to planning matters (18) and all but one of the eight local settlements were in this category. That complaint concerned various delays by the Council in dealing with queries from the complainant about works necessary to some steps on Council land over which she had rights of access. The Council agreed to pay compensation of £300.

In one of the planning cases the Council accepted that there was some doubt about the advice that had been given to the complainant about the sort of windows she could fit in her converted barn. The windows she was advised to install were more expensive and the Council agreed to pay 50% of the additional cost of £2,400.

One case concerned the failure by the Council to follow a previously agreed settlement. The Council had agreed to pursue enforcement action, or to explain why it would not, within three months of the closure of the previous complaint. Instead it delayed doing so for over 12 months. The Council readily accepted its failings and paid £500 compensation.

In another similar complaint there were delays by the Council in following up alleged breaches of planning control. The Council agreed to pay compensation of £500.

A complaint concerned a condition which had been imposed on a planning permission relating to the finish to be used on the new development. The Council eventually considered the finish proposed to be acceptable but the condition requiring it to match the existing finish raised the complainant's hopes as to the nature of the completed development. Compensation of £250 was paid.

Two complaints concerned delay in pursuing enforcement action and the Council paid each complainant £100.

In the last complaint there was delay and other failures in the Council taking action to impose a Tree Preservation Order. This allowed the developer to fell two trees which otherwise would have been protected. The Council apologised and reviewed its procedures

Liaison with the Local Government Ombudsman

Formal enquiries were made on 15 complaints during the year. The Council's average response time was 22 days, a considerable improvement on the previous year and well within the 28 days requested.

North Cornwall District Council

Enquiries and complaints received

Our Advice Team received 27 complaints and enquiries during the year. The service which generated the most contacts by some margin was planning and building control with 14.

We treated seven of all the complaints and enquiries received as premature and in a further six cases advice was given. The remaining complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 16 complaints against the Council during the year. In seven of those cases I found no evidence of maladministration. I used my discretion not to investigate a further three. Three cases were outside my jurisdiction.

Local settlements

Two complaints were decided as local settlements.

In one case the complainant's mother was on the waiting list for a transfer to a new Council house. The property next to the complainant's became available and it was offered to her mother. It then transpired that the person who had originally been offered the property had and refused it decided that she wanted to take up the offer. After the complaint had been made to me the person decided that she did not want to take up the offer and it could therefore be offered to the complainant's mother, which I considered provided a satisfactory settlement.

The other complaint concerned the operation of a waste site. There were no faults in the Council's substantive action in investigating the alleged breaches of planning control and noise nuisance but it did fail to keep the complainant adequately informed. The Council agreed, by way of settlement, to write to the complainant setting out the position in regard to the breaches and what action it could take.

In neither case did I consider that compensation was necessary.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 11 complaints during the year. The Council's average response time was 20 days which was a considerable improvement from the previous year and well within the 28 days requested.

Penwith District Council

Enquiries and complaints received

Our Advice Team received 36 complaints and enquiries during the year. The majority of contacts were about planning and building control with 20.

We treated eight of all the complaints and enquiries received as premature and in a further five cases advice was given. The remaining complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 30 complaints against the Council during the year. In 18 of those cases I found no evidence of maladministration. I used my discretion not to investigate six cases and four were outside my jurisdiction.

Local settlements

Of the complaints against Penwith District Council two were decided as local settlements. One concerned delay in implementing measures agreed by Members in relation to allowing cycling on a footpath. By way of settlement the Council agreed to review the options for the path. The other complaint that was settled concerned a private housing grant. There had been poor communication between the County Council and the District Council which resulted in a wet room being installed rather than a low threshold shower. The Council agreed to carry out remedial works to the complainant's satisfaction. In neither case did I consider that compensation was necessary.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 15 complaints during the year. The Council's average response time was just 19 days which was a significant improvement on the already good result the previous year and well within the 28 days requested.

Restormel District Council

Enquiries and complaints received

Our Advice Team received 41 complaints and enquiries during the year. Most contacts were about planning and building control with 26.

We treated 14 of all the complaints and enquiries received as premature and in a further five cases advice was given. The remaining complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 23 complaints against the Council during the year. In eight of those cases I found no evidence of maladministration. I used my discretion not to investigate a further ten and three cases were outside my jurisdiction.

Local settlements

Of the complaints against Restormel District Council two complaints were decided as local settlements and I asked the Council to pay £2000 compensation in total.

The majority of my decisions related to planning matters (14) and the two complaints that were settled fell into this category. Both concerned failures to take enforcement action. In one case the Council failed to take enforcement action in respect of a landscaping scheme within the necessary time scales and in the other failed to ensure a developer made a highway up to adoptable standard and to landscape a parking area. In both cases the Council accepted that there had been problems with its enforcement function and paid both complainants £1000.

One complaint I closed because I did not consider that the complainant had suffered a significant injustice but it raised an interesting point which is worthy of mention. The Council had leased parking control at a beach to a private company. The lease provided that charges and penalties should be broadly comparable to those in the Council's car parks but in fact the charge for a parking contravention was about 50% more. The Council agreed to seek to ensure that the charges were made comparable.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 10 complaints during the year. The Council's average response time was 34 days which was an improvement from the previous year but still outside the 28 days requested.

Training in complaint handling

I am pleased that during 2008/09 we provided training in Good Complaint Handling in Social Care and Effective Complaint Handling in Social Care to staff from the former Cornwall County Council. I presume it is likely that those staff will have transferred to the new authority and I hope they found the courses useful.

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. There has been substantial reorganisation of local government in Cornwall and I hope that you find this information and assessment useful when looking forward to the provision of services by Cornwall Council. One particular point of note is that many of the predecessor authorities had a poor record on responding to my enquiries in a timely manner. I do hope that your new authority will ensure that this past poor performance is not repeated.

**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
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
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	Benefits	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	2	8	0	1	11
Advice given	1	1	0	1	3
Forwarded to investigative team (resubmitted prematures)	0	2	1	3	6
Forwarded to investigative team (new)	0	14	1	2	17
Total	3	25	2	7	37

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	8	0	0	10	2	2	22

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	15	22.1
2007 / 2008	12	66.1
2006 / 2007	13	42.1

Average local authority response 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 park authorities	100	0	0