

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

**Kirklees Metropolitan 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

<b>Section 1: Complaints about Kirklees Metropolitan Borough 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 Kirklees Metropolitan Borough Council 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about Kirklees Metropolitan Borough 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

In total there were 135 enquiries and complaints about your Council during 2008/09. Formal and informal premature complaints made up 44 (32.6%) of these contacts, 16 (11.9%) people were given advice and 75 complaints (55.6%) were considered by my staff.

Looking at the category of complaint, the largest number of contacts (41) were about Other matters such as anti-social behaviour, land and waste management, with just over one-third of these (15 or 36.7%) being premature complaints and 18 complaints for investigation. This was followed by Housing (27 contacts, 16 complaints for investigation), Planning and Building Control (21 contacts, 15 complaints for investigation) and Education (14 contacts, 10 complaints for investigation). The remaining enquiries and complaints were spread over a variety of subject areas.

## Complaint outcomes

### Reports

I issued one report about your Council during the year. The complainant, a man in his early twenties, lives with his parents and two siblings. He became quadriplegic whilst being treated in hospital for leukaemia. The family's house had to be adapted to meet his new needs and those of his family, including a foster brother with special needs. I concluded that the Council failed to take full account of his needs and those of his family when planning the works and caused the works to be excessively delayed. I recommended that the Council:

- Pay the young man £7,000 compensation for the unreasonable restriction on his day to day life he suffered
- Arrange a personal apology by a senior officer to him
- Pay his parents £8120 for his father's time and trouble pursuing the complaint and their struggle to provide him with care without the necessary facilities and space and
- Review and report upon your Council's relevant practices and procedures.

The Council has already complied with the first three recommendations and I look forward to receiving the review of the relevant practices and procedures shortly, to ensure that the same problems will not recur in future.

### **Local settlements**

We will often discontinue enquiries into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. The comparable figure for your authority was 25.3%.

There were four settlements of housing repair complaints.

The three school admissions settlements led to two appeals and one offer of a place at the school.

Two planning and building control complaints led to settlements. In one, the complainants owned their house which backs onto a site subject to various planning applications for a residential development of new houses. Originally approval was given for new housing 20-21 metres behind their house but later an amended application was approved for new housing just 15 metres behind it. The report to the sub-committee which approved the application failed to explain that their house lay 2.88m below the level of the new housing and that what was proposed was six metres closer than the minimum separation distance in the Council's policy. The Council agreed to pay £2,600 to reflect reduced amenity and to arrange for the planting of three trees between their house and the new housing.

One complaint concerned fees of £3,154 which the Council had deducted from a Disabled Facilities Grant of £30,000. The complainant argued that the fees were unjustified as he had project managed the whole application with no help from the Council. The Council was only able to justify the fees in general terms, rather than being able to provide a detailed breakdown of how the fees had been calculated. The council agreed to waive the fees and re-issue the grant approval.

Of the 94 decisions made on complaints about your Council, 30 were on premature complaints which had been resubmitted to the Ombudsman because the person complaining was unhappy with the response they had received from the Council (31.9%). These 30 complaints resulted in 10 local settlements, one-third of the decisions made on them. The Council may find it helpful to review these complaints to identify any lessons for future complaint handling.

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

The average time taken by the Council to reply to our written enquiries on 41 complaints was 23 days, well within the target of 28 days and in line with the 22.9 days achieved last year. Performance was consistently good across categories of complaint. The Council's quick responses are important in helping us provide a quality service to people who complain.

My investigators have commented that the liaison officers respond promptly to requests for information and that officers are generally helpful and willing to settle complaints where problems have been found. The Council was particularly helpful in liaising with three foundation secondary schools in relation to problems with supplementary application forms.

Both the senior liaison officer and his managers visited my office this year. This kind of contact helps to improve our mutual understanding and ensure that our two organisations can work together effectively.

However a number of cases have highlighted concerns about some aspects of the Council's complaint handling. These include complaints where the officer making the decision complained about has been asked to respond to the complaint, delays and requesting unnecessary extra information. As well as considering these concerns, the Council may like to consider giving the senior liaison officer the authority to settle complaints which involve small payments.

### **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 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  
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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  
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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	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	2	1	11	1	2	5	5	15	44
Advice given	0	0	3	0	0	2	1	2	8	16
Forwarded to investigative team (resubmitted prematures)	0	2	0	7	2	2	4	1	7	25
Forwarded to investigative team (new)	2	3	10	9	0	3	11	1	11	50
<b>Total</b>	<b>4</b>	<b>7</b>	<b>14</b>	<b>27</b>	<b>3</b>	<b>9</b>	<b>21</b>	<b>9</b>	<b>41</b>	<b>135</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	1	21	0	0	32	29	11	94

**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	41	23.0
2007 / 2008	48	22.9
2006 / 2007	60	30.3

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