

**The Local Government Ombudsman's  
Annual Review  
North Devon District Council  
for the year ended  
31 March 2009**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

# Contents of Annual Review

<b>Section 1: Complaints about North Devon District Council 2008/09.....</b>	<b>3</b>
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	3
Liaison with the Local Government Ombudsman.....	5
Training in complaint handling.....	5
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 North Devon District Council 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about North Devon District Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2008/09 and a note to help the interpretation of the statistics.

## Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

## Enquiries and complaints received

During the year our Advice Team received a total of 36 enquiries and complaints concerning your Council. Of these, nine were referred to the Council to be considered first through your own complaints procedures, five of them on planning matters. Advice was given on four enquiries concerning other matters. The remaining 22 cases were referred to the investigative teams, five of them being resubmitted complaints which had previously been referred back to the Council.

Of the 22 complaints passed to the investigate team 13 were about planning issues. The following subjects were the subject of one complaint each: Housing, Local Taxation, Benefits, Transport and Highways, Environmental Health, Leisure and Culture and Licensing. One complaint was classed as 'Miscellaneous' as it did not cover any of the above subject headings.

## Complaint outcomes

During the year we made decisions on 25 complaints against the Council, 12 of them concerning planning issues. Three of the planning complaints were outside my jurisdiction, because it was reasonable for the complainants to pursue their grievances through other means, such as an appeal to the Secretary of State.

Investigation was not pursued on three unrelated complaints about the grant of planning permissions and three unrelated complaints about planning enforcement matters, because my investigators found no evidence of maladministration.

I have discretion not to pursue an investigation even where there may have been fault by the Council, for example where no injustice has been caused by the alleged fault. This year my discretion not to pursue investigation was exercised on one complaint about the grant of a number of related planning permissions and on one complaint concerning grass cutting on roadside verges.

Complaints about housing benefit, environmental protection (noise nuisance) and the provision of information were not pursued because no evidence of maladministration was found.

### **Local settlements**

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take 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 the Council two were settled in this way. Both concerned planning matters.

In one case my investigator found evidence of unreasonable delay by the Council in taking enforcement action on unauthorised business use of premises adjoining the complainant's business, in drawing up the enforcement notice and responding to correspondence. The Council also failed to keep the complainant informed of what was happening on the enforcement investigation, to prioritise enforcement cases, and to set a timetable for compliance. All of this caused significant inconvenience to the complainant as well as continuing concern about the impact on his own business. The Council agreed to my investigator's recommendation for compensation of £1,000 for the complainant and to set a timetable for compliance which would be shared with him.

A complaint about a failure to notify the complainant about a planning application on land adjacent to her home was addressed promptly by the Council who agreed to offer compensation of £250. Although the complainant lost the opportunity to register objections to the application the evidence indicated that this did not affect the outcome of the application.

### **Reports**

When we complete an investigation, we generally issue a report. This year I issued one report covering five individual complaints which all concerned the way the Council dealt with grant funding made available by central government for improving housing standards in the district - Decent Homes Assistance. In 2006 the availability of this grant funding was widely advertised throughout the district but inadequate preparation had been made to deal with the very high level of demand and no account was taken of relevant enquiries made before the new scheme was launched. The Council created expectations about availability of grant aid that officers had no hope of meeting. There were delays in carrying out property inspections and issuing documentation, and inadequate advice and information was given to applicants.

Following investigation the Council recognised the failures which had occurred and agreed to settle the complaints. I decided to issue my report because the complaints raised issues of general public importance.

The Council agreed to make the following ex-gratia payments:

- £50 to a complainant who had experienced anxiety and inconvenience but who had decided not to go ahead with the grant aided work.
- £350 to a complainant who had suffered unnecessary aggravation because her application should have been picked up automatically from enquiries she made under the previous scheme and time and trouble in pursuing her complaint, although her application was approved.
- £500 for a complainant who actively and repeatedly chased the Council for a reply to his enquiries but because of the lack of response from the Environmental Health Department found it necessary to channel his enquiries and application via the Customer Services Department.
- £1,000 for a complainant whose hopes of having additional work done were mistakenly raised by officers, when her application, submitted later than the others, had not been processed before the available funding ran out. The Council also agreed to re-prioritise her application under criteria applied in 2006/7.
- £2,000 for a complainant who had registered an interest under the previous grant programme but whose enquiry was progressed only after she rang up having become aware of the new scheme. Inadequate advice meant that her application was not completed before the money ran out, and it was not approved although at least one other application completed after hers was. Her application was eventually approved in 2008 but at a lower rate so that she had to contribute more to costs, she suffered unnecessary anxiety, inconvenience and distress for more than a year and her home failed to meet acceptable standards for far longer than it should have.

In addition the Council agreed to review procedures, to ensure that appropriate information is provided for applicants as well as guidance for officers, and to ensure a cohesive Private Sector Renewal Policy is in place as soon as possible.

In all these local settlement and reported cases during the year, compensation amounting to £5,150 was paid by the Council to address injustice arising from administrative fault.

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

I am disappointed to note that the average time taken by the Council to respond to enquiries from my office, 36.6 days over 12 cases, has lengthened from previous years when the target of 28 days was very nearly achieved. This increase is accounted for by two planning cases where the response time was exceptionally long - 89 days and 67 days. The Council explained at the time that delay on these cases was due to staff shortages and to a crucial officer unexpectedly away from work for an extended period. I hope that these difficulties will not recur for the future. Please let the Assistant Ombudsman or my investigators know if there is anything we can do to assist your officers in responding to our enquiries.

Other than this, however, your officers are always helpful and proactive where complaints are being investigated and we value the commitment shown to providing an effective and comprehensive response.

### **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.

We have 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.

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

## Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	5	2	0	0	11	2	5	25

## Response times

	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	12	36.6
2007 / 2008	10	28.8
2006 / 2007	10	28.2

## 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