

**The Local Government Ombudsman's  
Annual Review  
Surrey County Council  
for the year ended  
31 March 2009**

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

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

## Introduction

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

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

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

## Changes to our way of working and statistics

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

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

## Enquiries and complaints received

We received a total of 120 enquiries about your Council in 2008/09, of which 71 were complaints which were forwarded to the investigative team. Transport and highways (27), education (26), adult care services (19) and children and family services (18) generated most of the initial contacts.

Education was the service area with the highest number of complaints passed on for investigation (25). Most of these related to school admissions issues. We also had numbers of complaints about transport and highways (17, almost all of which concerned highways management), adult care services (11) and children and family services (7).

## Complaint outcomes

When we complete an investigation, we issue a report. This year I issued two reports against your Council, finding maladministration causing injustice in both. One involved a child and one involved a young person.

In total, decisions were made on 75 complaints against the Council in 2008/09. There were 20 complaints where I found no or insufficient evidence of fault by the Council to justify further investigation. There were also 10 complaints which fell outside my jurisdiction.

Sometimes though the Council may be at fault I use my discretion not to pursue an investigation because there is no significant injustice to the complainant. But there still may be lessons for the Council to draw from such cases. This year I closed 26 cases using my discretion.

A 'local settlement' is a complaint where, during the course of our investigation, the Council has agreed to take some action which we consider is a satisfactory response to the complaint. This can include such things as reconsideration of a decision, a review of policies, an apology or other action. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. In addition we may ask the Council to pay compensation. This year I agreed 17 local settlements with your Council (23% of all decisions) and asked you to pay compensation of over £15,000 in total.

## **Complaints by service area**

### ***Education***

I came to decisions on 30 complaints about education, of which 23 concerned school admissions. I found no grounds to pursue matters in most cases. But sometimes there are still lessons which can be learnt. In one case, for example, there was a dispute about when an application for a school place had been received. Receipts are issued automatically where applications are made online, but when they are delivered by hand to the school it would seem appropriate to have an arrangement to offer a paper receipt and this did not happen. Our Special Report on School Admissions and Appeals recommends that receipts are always provided, and that this practice is set out in the Council's literature so that parents know what to expect. Other complaints raised the vexed issue of checking applicants' addresses, to ensure they live where they claim. The Council did not routinely check addresses and I recommended that the Council should review matters with a view to improving its practices: the Council was already reviewing its verification processes. I am pleased to note that the Council has subsequently confirmed new arrangements involving more stringent checks regarding applications for places in September 2009.

I published one report on an education complaint. This concerned a child who had been excluded from school. The child's parents appealed against this decision, and the independent appeal panel which considered this upheld the appeal. But it also decided that the pupil should not return to the school. The Council then did not meet its duty to provide appropriate alternative education while the pupil was out of school and did not promptly pursue an alternative school. As a result, for about half the school year the pupil had little assistance with his GCSE syllabus and his chances of obtaining good GCSE grades were adversely affected. To remedy matters, the Council agreed to fund weekly individual tuition (or other educational support) on top of normal schooling, to pay £750 in compensation, and to amend its procedures.

Six complaints about school admissions were closed as local settlements. In four of these cases matters were resolved at an early stage by the offer of a school place. This was what the complainants were seeking, so I did not pursue matters further.

In another case, the Council gave an admissions appeal panel incorrect information about the journey to school the pupil would have to take to the school they were offered: the journey would have been much more difficult than was claimed. The incorrect information was taken into account by the appeal panel in rejecting the parents' appeal and so cast doubt on the decision. When the correct information was made known at a second appeal, which I had recommended, the Council offered a taxi to the school. Meantime, the pupil was being educated privately. There was a question whether a less expensive option might have been available: I asked the Council to pay half costs of the private schooling, which the complainant was happy to accept as a suitable settlement.

The remaining settlement of a school admissions case was agreed where the Council was not sufficiently pro-active in arranging alternative provision for a child who had been withdrawn from school. This resulted in the child receiving no education for around two months. In this case, £1,500 compensation was awarded to fund additional educational support at the pupil's new school.

Finally, there were settlements of one school exclusions case and one about special educational needs. With the former, the Council agreed to pay £2,000 where there was a six weeks' delay in making educational provision for an excluded child. It also agreed to arrange a fresh appeal about the exclusion matter if required, due to acknowledged problems with the original appeal process. With the complaint about special educational needs, the Council delayed in putting speech and language therapy in place for a pupil who moved into the area and required this. In response the Council took the advice of the therapist and provided 'catch-up' sessions. It also agreed to pay the complainant £200 as compensation for the time and trouble they had spent.

### ***Children and family services***

Four of the five children and family services' complaints were not pursued: in two cases this was because they were inextricably tied up with court proceedings which were outside my jurisdiction. In one of the other complaints a general issue about delays by occupational therapists in undertaking assessments in children and family services' cases had already been acknowledged by the Council. As a result, I asked the Council to report back to me about the way in which it intended to address the problem. I am pleased to note the Council's recent confirmation that it has agreed to further recruitment and to review other staffing arrangements for occupational therapists in an effort to improve matters.

The one local settlement concerned the Council's failure to report properly on the placement of a child with foster parents which broke down, although the fostering agency and foster parents shared some of the responsibility for what happened. The Council agreed to pay £200 compensation in addition to the £400 it had already offered because of the fault on its part.

### ***Adult care services***

I decided 13 complaints about adult care services, including one where I issued a report. One other complaint was not within my jurisdiction and in another case I did not find fault with the Council. I decided to exercise my discretion not to pursue another five complaints. Finally, I agreed local settlements in five cases.

The reported complaint involved a quadriplegic young person with complex special needs. They attended college as a residential student on a two year college course (later increased to three), going home most weekends, during college holidays and when unwell. It was a good placement, but the young person's long term wish, and that of their family, was for them to live and be cared for at home and this was known to the Council. Despite also knowing when the course would end and that the family home would have to be adapted to allow for the young person's needs, the Council did not plan for it. The Council delayed for about 30 months in carrying out an assessment of needs and an occupational therapist's report was also delayed and was wholly inadequate. A proper consideration of the issues, and of human rights, would have led to an improvement in family circumstances. Instead, the young person and their family were excluded from the family life they sought.

To remedy the injustice caused, the Council agreed to pay £5,000 compensation and to review its procedures, including with partner bodies. I understand that the works to the family home are now being progressed.

One settlement involved a young adult with learning difficulties who needed support with independent living. Disagreements between different care services teams delayed the provision of assistance from a care manager, caused an overlong stay in a mental health crisis placement and delayed a move to more appropriate supported accommodation. The Council agreed to offer personal apologies and to pay a total of just over £1,700 in compensation. It also agreed to review its procedures so that internal disagreements are addressed appropriately.

In another, the Council took 18 months to correct a miscalculation of residential care charges, causing the complainant financial hardship. This was compounded by poor communications and then by delays in implementing recommendations made following the Council's own investigation of the complaint. The Council had already offered £3,750 compensation but agreed to provide a further £1,600 towards the complainant's unnecessarily incurred legal costs.

In a further case there was a dispute with another council over where a care home resident had been 'ordinarily resident', and hence which council was liable for charges, before the Council accepted it was liable. Although the dispute went on too long, it had no direct impact on the resident, who had been the complainant's parent but who had sadly died. The complainant was however caused some unnecessary distress for which a nominal payment was agreed.

With another case about residential care, the complainant was dissatisfied with the care their parent had received at a care home, where they sustained injuries, and with the Council's investigation into this matter. Despite the investigation, the Council had been unable to explain the cause of the injuries. The Council had already offered counselling and £600 compensation. I did not see that I could establish what had happened, but I decided not to pursue matters when the Council agreed also to write off outstanding care home charges of over £750.

The final settlement of an adult care services complaint concerned the adequacy of a remedy offered by the Council after a complaint considered through the statutory complaints procedure. This accepted fault in failing to communicate in a timely fashion, delay in undertaking a needs assessment and lack of support. I agreed that the Council's offer was insufficient, and the Council then agreed my proposal that the complainant should be offered £500 compensation.

### ***Transport and highways***

I made 17 decisions on complaints about transport and highways issues. Most were not pursued because there was no fault or insignificant personal injustice to the complainant, or because the issue was outside my jurisdiction. I found no fault regarding one complaint about an alleged failure to address reported defects with the highway and street lights. But the Council responded positively to my investigation by initiating a number of changes to its highways reporting arrangements to improve the service provided to customers.

Local settlements were concluded in three cases, two of which involved minor compensation awards following faults in dealing with applications for vehicle crossovers. The other involved the Council's apology for not addressing concerns about the enclosure of highway land, and addressing these concerns.

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

We ask Councils to respond to our enquiries within 28 days. The average response time for the 40 enquiries made to your Council was 22.9 days, and I note that our target time was consistently met across all service areas. This is commendable and represents a marked improvement compared to the two preceding years. I am particularly encouraged by the improved performance in respect of responses on adult care services complaints.

I note that two of the Council's Customer Relations officers recently attended our seminars for council Link Officers. During the year my Investigators also had liaison meetings with officers dealing with complaints about social services and education, and found these contacts to be constructive. I believe my officers and the Council's staff continue to have generally good working relationships. My Investigators have reported in particular on numerous examples of the Council's positive response to complaints and its willingness to provide remedies or procedural changes where things are found to have gone wrong. I am encouraged by the constructive contacts that have taken place between our organisations, and I trust we can continue to build on these in the interests of effective complaint handling and the achievement of appropriate outcomes for complainants.

### **Training in complaint handling**

I am pleased that during 2008/09 we provided two training sessions in Good Complaint Handling and one on Effective Complaint Handling to staff from various departments in your authority. I hope that these sessions proved useful to your staff. I note that two of my Investigators also participated in the training the Council organised for members of School Exclusion Appeal Panels.

We have extended the range of training 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.

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**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.

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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	6	6	2	2	0	1	1	8	5	31
Advice given	2	4	1	0	1	0	2	3	5	18
Forwarded to investigative team (resubmitted prematures)	3	1	0	0	0	0	1	3	1	9
Forwarded to investigative team (new)	8	6	25	0	0	0	4	14	5	62
<b>Total</b>	<b>19</b>	<b>17</b>	<b>28</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>8</b>	<b>28</b>	<b>16</b>	<b>120</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	2	17	0	0	20	26	10	75

**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	40	22.9
2007 / 2008	36	31.2
2006 / 2007	31	32.2

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