

**The Local Government Ombudsman's  
Annual Review  
Colchester Borough Council  
for the year ended  
31 March 2010**

Local Government Ombudsmen (LGOs) provide 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, we aim to get it put right by recommending a suitable remedy. We also use 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 Colchester Borough Council 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about Colchester Borough 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 2009/10 and a note to help the interpretation of the statistics.

## Enquiries and complaints received

During the year our advice team received 34 enquiries about the Council; this was a decrease from the 41 enquiries received in the previous year. We treated six of these enquiries as premature and referred them back to be dealt with under the Council's complaints procedure. We gave advice in response to a further seven enquiries. The other 21 complaints were passed to the investigation team. This figure included seven complaints that we had previously referred to the Council to be dealt with under its complaints procedure but where the complainants remained dissatisfied with the outcome.

As has been the case in previous years, housing (mainly allocations, tenancy management and repairs) and planning and building control were the most common subjects of complaint.

## Complaint outcomes

During the year we decided 21 complaints. In 10 cases we decided there was no or insufficient fault to justify further investigation. One complaint fell outside my jurisdiction because the complainant had a right of appeal to the Parking Adjudicator in relation to the issue of penalty charge notices.

Sometimes I will exercise discretion not to pursue a complaint even though there may have been some fault by a council. Often this is done where the fault has not caused any significant injustice to the person making the complaint. However, in some cases there will still be lessons for the council to learn. I used my discretion in this way on six complaints. In one case, the Council agreed to review the wording of the standard letters it sends to notify neighbours that it has received a planning application which may affect them. In another case, I suggested that the Council might wish to review its procedure for visiting elderly tenants without prior notice.

## 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 2009/10, 26.9% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Four of the complaints we decided against your authority this year resulted in local settlements (20% of decided cases which were within jurisdiction). Two of them were complaints which we had previously asked the Council to deal with but the complainants then resubmitted their complaints, dissatisfied with the outcome.

One local settlement was in relation to a (resubmitted) complaint made by a person whose application for planning permission had been refused. We do not normally investigate complaints about refusal of planning permission because an appeal can be made to the Planning Inspectorate but in this case, the applicant had been incorrectly advised by officers that an access and design statement was not required. The failure to submit an access and design statement meant that the Planning Inspectorate would not accept an appeal, so the applicant had to reapply to the Council, and so I asked the Council to pay £500 compensation to reflect the inconvenience of this unnecessary effort.

Two housing complaints resulted in local settlements: in one (resubmitted) case the Council had decided that the applicant was not entitled to bid for a bungalow but, in the light of new medical information that became available during our investigation, the Council changed its decision. In another case a person in temporary accommodation complained about delays in dealing with repairs and damp issues. I asked the Council to pay £75 compensation for delay in carrying out some minor repair work but I felt the complainant had contributed to the problem by failing to follow advice provided by the Council.

The other local settlement arose in a complaint where a family with a disabled child was unsuitably housed and there was a question over whether the problem could be solved by moving home or by having adaptations done in their current property. The Council agreed to amend the standard letter that it had been sending to housing applicants with disabilities (or with family members with disabilities) saying that it would not be able to fund adaptations if they selected a property that is not suitable for them and did not already meet their needs. The Council agreed to add a statement confirming that if applicants needed a number of adaptations, and could not find properties which had all of them, they should discuss with the adaptations coordinator whether funding would be available.

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

The Council took an average of 29.3 days to reply to our written enquiries on complaints. This is an improvement on the previous year when the average response time was 34.5 days. However, we expect councils to reply to our enquiries within 28 days and so I hope the Council will continue to improve its response times over the coming year.

Two of your officers attended the link officer seminar which we held in May 2009 and I hope this was a useful experience for them.

### **Training in complaint handling**

I would like to take this opportunity to remind the Council that 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 authority's services.

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**June 2010**

## Section 2: LGO developments

### Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

### New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in **Barking and Dagenham, Cambridgeshire, Medway and Sefton**. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at [www.lgo.org.uk/schools/](http://www.lgo.org.uk/schools/)

### Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

### Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at [www.lgo.org.uk/guide-for-advisers/council-response](http://www.lgo.org.uk/guide-for-advisers/council-response)

## **Training in complaint handling**

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

## **Statements of reasons**

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

## **Delivering public value**

We 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 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.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

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**June 2010**

# Appendix 1: Notes to assist interpretation of the statistics 2009/10

## 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.

**Premature complaints:** 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 either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

**Advice given:** These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

**Forwarded to the investigative team (resubmitted premature and new):** These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to 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 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 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 LGO 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 LGO'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 LGO'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 2009/10**

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

**LGO Advice Team**

<b>Enquiries and complaints received</b>	<b>Housing</b>	<b>Benefits</b>	<b>Planning and building control</b>	<b>Transport and highways</b>	<b>Other</b>	<b>Total</b>
Formal/informal premature complaints	0	0	3	0	3	6
Advice given	2	1	1	1	2	7
Forwarded to investigative team (resubmitted prematures)	3	0	2	1	1	7
Forwarded to investigative team (new)	6	0	4	2	2	14
<b>Total</b>	<b>11</b>	<b>1</b>	<b>10</b>	<b>4</b>	<b>8</b>	<b>34</b>

**Investigative Team**

<b>Decisions</b>	<b>MI reps</b>	<b>LS</b>	<b>M reps</b>	<b>NM reps</b>	<b>No mal</b>	<b>Omb disc</b>	<b>Outside jurisdiction</b>	<b>Total</b>
2009 / 2010	0	4	0	0	10	6	1	21

**Average local authority resp times 01/04/2009 to 31/03/2010**

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	11	29.3
2008 / 2009	16	34.5
2007 / 2008	18	30.7

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20