

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

Devon County 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 Devon County Council 2009/10

Introduction

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

Enquiries and complaints received

In 2009/10 we received 68 enquiries and complaints relating to your council, compared with 53 the previous year. Of the 68, 17 were about adult care services and a further 17 about transport and highways; eleven were about education, ten about children and family services, and five about planning and building control. The eight remaining complaints were about other matters including drainage and access to information.

We treated 10 of these complaints and enquiries as premature and either referred them to the council or advised the complainant to contact the council direct. In a further 11 cases we gave the complainant advice. The remaining 47 complaints (five resubmitted premature complaints and 42 new ones) were passed to the investigative team.

Complaint outcomes

We decided 38 complaints against the council during the year. In 15 cases we found no evidence of maladministration and nine complaints were outside jurisdiction. In a further ten cases, the Ombudsman's discretion was exercised not to investigate. Typically these are cases where even though there may have been some fault by the council there is no significant injustice to the complainant.

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. Of the complaints we decided against your authority, four resulted in local settlements. The settlements involved various practical measures and three involved payments to complainants totalling £8,000.

Children and family services

Two of the complaints which resulted in local settlements concerned children and family services.

In the first of these, the council placed a young child with a relative at short notice without support and in the four day period of the child's stay failed to keep the carer informed about what would

happen next. In recognition of the distress and inconvenience caused the council agreed to pay the complainant £500.

In the second complaint settled in this category, the council gave inadequate consideration to financial support for the complainant following Residence Order proceedings. To remedy this complaint the council promptly provided an apology and agreed to make the complainant an ex gratia payment of £5,500, taking into account their reasonable costs incurred in pursuing concerns about entitlement to financial support. In addition the council agreed to review payments made in order to identify any arrears of Residence Order allowance due.

Adult care services

One complaint about adult care services also resulted in a local settlement. In that case an adult with physical and learning disabilities had been placed in very specialised accommodation which was run by a housing association. That housing complex subsequently closed, and the complaint concerned the processes followed by the council in finding suitable alternative accommodation for this vulnerable client. After several unsuitable temporary placements suitable accommodation was found. The council agreed to pay £2,000 in recognition of the fact that some of the accommodation arranged had not been suitable for the needs of the disabled person concerned. When the complaint was made to us, the council had already undertaken a review of how to deal with such home closures in the future.

Traffic management

A complaint about traffic calming measures was settled locally when the council agreed with residents and implemented a revised traffic calming scheme.

Liaison with the Local Government Ombudsman

We made enquiries on 18 complaints during 2009/10, fewer than in 2008/09 (23 enquiries). We ask councils to respond to our initial enquiries within 28 days. Your council's average response time was 33.7 days which is significantly worse than the average response time of 26.4 days the previous year. Enquiries on complaints about adult care services resulted in an average response time of 60.8 days while enquiries on complaints about children and family services resulted in an average response time of 33.5 days. The council also took 37 days to respond to enquiries on a complaint about drainage, and an average of 33.7 days to respond to complaints about transport and highways matters. I would encourage the council to work to improve the speed of its responses.

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 practice 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/

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

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

| Enquiries and complaints received | Adult care services | Children and family services | Education | Planning and building control | Transport and highways | Other | Total |
|--|----------------------------|-------------------------------------|------------------|--------------------------------------|-------------------------------|--------------|--------------|
| Formal/informal premature complaints | 2 | 2 | 0 | 1 | 5 | 0 | 10 |
| Advice given | 1 | 3 | 1 | 0 | 4 | 2 | 11 |
| Forwarded to investigative team (resubmitted prematures) | 1 | 0 | 0 | 2 | 0 | 2 | 5 |
| Forwarded to investigative team (new) | 13 | 5 | 10 | 2 | 8 | 4 | 42 |
| Total | 17 | 10 | 11 | 5 | 17 | 8 | 68 |

Investigative Team

| Decisions | MI reps | LS | M reps | NM reps | No mal | Omb disc | Outside jurisdiction | Total |
|--------------------|----------------|-----------|---------------|----------------|---------------|-----------------|-----------------------------|--------------|
| 2009 / 2010 | 0 | 4 | 0 | 0 | 15 | 10 | 9 | 38 |

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 | 18 | 33.7 |
| 2008 / 2009 | 23 | 26.4 |
| 2007 / 2008 | 11 | 27.2 |

| 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 |