

**The Local Government Ombudsman's
Annual Review
Essex 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 Essex County Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Essex 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

I received 148 enquiries and complaints about your Council in 2009/10, a slight increase on the 139 received last year. A total of 92 cases were passed for investigation including 10 that were resubmitted to us as the complainants remained unhappy with the Council's response to their complaint. A further 30 complaints were referred back to the Council to consider and we gave advice in the remaining 26 cases.

The majority of the enquiries and complaints related to four service areas: education (40), adult care services (35), children and family services (32) and transport and highways (23).

In broad terms, the profile of enquiries and complaints in 2009/10 is similar to that in 2008/09. But within these broad figures there have been significant increases in the number of complaints forwarded for investigation relating to children and family services (up from four to 14) and adult care services (up from nine to 18).

Thirty six education complaints were forwarded for investigation, including 21 about school admissions and nine about special educational needs.

Of the 16 complaints about transport and highways which were passed to the investigation team, all but two concerned highway management.

Complaint outcomes

We decided 80 complaints against your Council. In 38 cases we found no or insufficient evidence of administrative fault to justify continuing our investigation. In a further 15 cases, we exercised our general discretion to not continue our investigation including where the complainant decided to withdraw the complaint. Another 15 cases were outside my jurisdiction.

Reports

When we complete an investigation we generally issue a report. I issued one report against your Council concerning special educational needs. Details of this case are set out below under the heading 'education'.

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. In 2009/10 we agreed 11 local settlements with your Council, being 16.9% of decisions on complaints which were within our jurisdiction. Of these, six concerned children and family services and total compensation of £16,456 was paid by the Council. A further three local settlements were reached in complaints about special educational needs with the Council paying £1,200 compensation. The remaining two local settlements concerned adult care services and the Council paid a further £600 compensation. Details of some of these local settlements appear below in the relevant service area commentary.

Complaint outcome by service areas

Education

We decided 31 cases in this category. Of these cases, 21 were closed because we found no or insufficient evidence of administrative fault to warrant continued investigation and three were closed using our general discretion. A further three complaints were outside my jurisdiction.

The report I issued and the three local settlements that were agreed all concerned special educational needs. The case I reported on concerned the Council's failure to act with sufficient urgency in assisting a child with special educational needs. The Council refused a request to assess the child and then failed to keep its agreement to review that request. It later decided to carry out an assessment although it had not received any clear and additional new information. I found there was unnecessary delay in reaching this decision, which had led to the issue of a statement of special educational needs. The Council agreed to fund a further year of specialist teaching for the child and to refund the parent's costs in getting a specialist report. The Council also paid the child £250 for distress and missed opportunities and a further £500 compensation for the parent's distress and time and trouble in pursuing the complaint.

Of the three local settlements, two involved the same young person. The Council accepted that it had failed to draw up a reintegration plan within one month of the young person's exclusion from school being upheld; and that there had been delay in contacting alternative schools. The Council agreed to take action to learn lessons from what happened and to provide a better service in future; and paid £200 compensation to the young person's parent. A further complaint was made by the parent and the Council accepted there was delay in arranging the annual review of the young person's statement of special educational needs. The Council offered an unreserved apology and reviewed its procedures to avoid a recurrence of the problem.

The remaining local settlement concerned the Council's failure to provide a child with specialist dyslexia teaching on nine occasions. To remedy this the Council provided nine additional sessions and agreed to fund any necessary reassessment fee and paid £250 compensation for the complainant's time and trouble in pursuing the complaint.

Children and family services

We decided nine cases in this category. Of these cases, two were outside my jurisdiction and I closed one using my general discretion. The remaining six cases were all local settlements. In one case I found that the Council did not have a procedure for an appeal against a statement of special educational needs where it was looking after the young person concerned. The Council also failed to provide the young person with the educational provision set out in the statement for 26 weeks. And, for nine months before the statement was issued, the Council had provided just under half of

the young person's entitlement to support services. To remedy these failings the Council agreed to pay over £8,000 compensation for the loss of education and the distress caused to the young person.

Another case concerned the Council's delay in carrying out an investigation where it considered a child might be at risk of 'significant harm'. The Council began an investigation in July 2005 and completed it in January 2007. However, it found it had not complied with its own child protection procedures and so started a second investigation which was completed in February 2008. I accepted that there were good reasons for conducting the second investigation but the inadequacies of the first investigation delayed matters for 18 months and caused unnecessary additional distress to the foster carers involved. The Council agreed to send the foster carers a written apology for the delay and £500 compensation.

A third local settlement involved the Council's policy and procedures on special guardianship allowances. In this case, the Council initially considered the complainant ineligible for the allowance but, as it was in the process of changing its policy, it subsequently agreed to assess the complainant's application. I found the Council had delayed at various stages of the process both before and for 10 months after it agreed to assess the application. The allowance was paid and backdated 17 months to when the court granted the complainant a special guardianship order. The Council agreed to pay the complainant £600 compensation for delay.

A further case concerned a series of unreasonable delays by the Council in arranging therapy (nine months) and a mentor/independent visitor (five months) for a young person in foster care. These delays impacted on the young person's sibling and the Council took five months to arrange counselling for the younger child. The Council also failed to provide school transport for the young person. The Council apologised for the errors, made arrangements to start the various services, and paid compensation of over £2,000 for the distress caused to both youngsters and to cover the school transport costs.

Another local settlement was reached on a case about fostering. In 2008, a young person went to live with a family friend. A social worker visited and the friend believed that 'foster carer' status and the associated allowance would be available to help look after the young person. However, the Council decided the arrangement was a 'private fostering' and the friend was not eligible for financial help. The Council subsequently accepted that it had failed to properly consider if the young person was 'a child in need'. The Council apologised and agreed to pay £4,250 compensation.

The final local settlement concerned an occupational therapy assessment for a child with multiple disabilities and also involved a local housing authority. We found that no clear progress was made for about six months. It also took quite a long time to get the Council's responses to the complaint. But, the Council did offer £500 compensation for the delay and distress caused and arranged for the case to be promptly reassessed by a senior officer, which we considered a satisfactory remedy for the complaint.

Adult care services

We decided 16 cases in this category. In six of them, we found no or insufficient evidence of administrative fault. In four we used our general discretion to not investigate and a further four complaints were outside our jurisdiction.

There were two local settlements. The first concerned the Council's delay of about a year in carrying out an accurate financial assessment to determine what contribution needed to be paid by a person living in a care home. The Council readily apologised; completed the outstanding assessment; and agreed to pay £200 compensation. The other local settlement also involved

delay, this time in carrying out a community care assessment. The target date for such assessments is 28 days but the Council took nine months in this case. The Council agreed to pay £400 compensation for the delay.

Transport and highways

We decided 17 cases in this category. Of these cases, eight were closed because we found no or insufficient evidence of administrative fault and three were closed using our general discretion. A further six complaints were outside my jurisdiction.

Other

We decided a further seven cases about planning applications (two), housing, consumer affairs, drainage, environmental health, and the Council's complaints handling. Of these cases, three were closed because we found no or insufficient evidence of administrative fault and the remaining four were closed using our general discretion.

Liaison with the Local Government Ombudsman

During the year I made written enquiries on 51 complaints and the Council's average response time was 29.6 days, which is an improvement on last year but still outside our target timescale of 28 days. I trust that the Council will seek to maintain that improvement in 2010/11.

We hold seminars every year so that council officers who coordinate responses to our enquiries may meet me and members of my team. We were pleased to meet your Senior Quality and Development Manager at our 'making experiences count' seminars in July 2009 and March 2010.

Training in complaint handling

The Council has booked our training courses in the past and I have enclosed some information on the full range of courses currently 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	Housing	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	11	14	0	0	0	0	3	2	30
Advice given	6	4	4	2	1	0	4	5	26
Forwarded to investigative team (resubmitted prematures)	2	3	0	0	0	0	5	0	10
Forwarded to investigative team (new)	16	11	36	1	0	2	11	5	82
Total	35	32	40	3	1	2	23	12	148

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	11	0	0	38	15	15	80

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	51	29.6
2008 / 2009	50	30.2
2007 / 2008	47	37.5

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