

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

# Contents of Annual Review

|  |           |
|--|-----------|
| <b>Section 1: Complaints about Hertfordshire County Council 2009/10.....</b>     | <b>3</b>  |
| Introduction.....  | 3         |
| Enquiries and complaints received.....   | 3         |
| Complaint outcomes.....  | 3         |
| Liaison with the Local Government Ombudsman.....                                 | 7         |
| Training in complaint handling.....  | 7         |
| Conclusions.....   | 7         |
| <b>Section 2: LGO developments.....</b>  | <b>8</b>  |
| Introduction.....  | 8         |
| New schools complaints service launched.....                                     | 8         |
| Adult social care: new powers from October.....                                  | 8         |
| Council first.....   | 8         |
| Training in complaint handling.....  | 9         |
| Statements of reasons.....   | 9         |
| Delivering public value.....   | 9         |
| <b>Appendix 1: Notes to assist interpretation of the statistics 2009/10.....</b> | <b>10</b> |
| <b>Appendix 2: Local authority report 2009/10</b>                                |           |

# Section 1: Complaints about Hertfordshire County Council 2009/10

## Introduction

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

A total of 96 enquiries and complaints were received about your Council in 2009/10 compared with 104 in the previous year. The majority of these were about four service areas, as follows:

|         | Adult Care Services | Children & Family Services | Education  | Transport & Highways |
|---------|---------------------|----------------------------|------------|----------------------|
| 2009/10 | 15 (15.6%)          | 19 (19.8%)                 | 39 (39.6%) | 11 (11.5%)           |
| 2008/09 | 10 (9.6%)           | 23 (22.1%)                 | 39 (37.5%) | 19 (18.3%)           |

Of these enquiries and complaints, 63 resulted in the matter being pursued by my investigative team. About half were about education. I will comment further on this later.

Of the remaining 33 enquiries and complaints, 15 were regarded as premature because it did not appear that your Council had been given a reasonable opportunity to deal with the matter. In the other 18 cases, the prospective complainants were given advice about the options open to them.

## Complaint outcomes

### General

I decided 60 complaints against your Council last year. More than half (33) concerned education.

I decided that seven complaints were outside my jurisdiction. Four of these related to court decisions already made in relation to the care arrangements for children and which the law does not allow me to investigate. Another complaint was about damage to a motor vehicle, allegedly caused by a failure to maintain the highway. As this was a complaint of negligence, I considered it appropriate for the complainant to seek a remedy in court. Similarly, I decided that a dispute about the terms of a lease, which is a legal agreement, was better dealt with by a court. In the other case, I did not consider that there were any exceptional grounds to investigate a complaint brought to me beyond the normal time of 12 months.

In 12 cases, I concluded that there was no or insufficient evidence of fault or service failure to warrant further investigation. The majority of these related to education and are referred to below. In one other case, the complainant disagreed with your Council's view on whether or not a footpath

was obstructed, but there was no indication of administrative fault.

In a further 20 cases, I exercised my discretion not to pursue the complaint, mainly because, even if there had been some fault, the injustice which might have arisen did not seem to warrant my further involvement. Again, those about education are discussed below. Other cases included a complaint about a resident enclosing part of a highway, although this appeared to have little effect on the complainant personally; and a complaint where initial misleading advice may have been given to a person applying for a vehicle crossover, but which did not materially affect the decision on the application. Another complaint raised general concerns about new pedestrian crossing arrangements in a town centre, and specifically the replacement of a zebra crossing with a pelican crossing, but these did not seem to affect the complainant to any significant degree.

### ***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 which were within our jurisdiction, 38.4% (21) were resolved in this way.

There were six complaints relating to children and family services. One was about respite care for the carers of a child with multiple needs. There was fault by your Council which included failings in communication and providing information about the respite arrangements, failings in arranging training, and delay in completing assessments. The respite arrangements broke down. I could not conclude for certain that fault by your Council caused the breakdown, but it did seem that this was at least possible. Problems with relationships with the child's school might also have been prevented. I concluded that uncertainty about these matters will have caused the complainants distress. They also incurred time and trouble in pursuing the complaint. The Council agreed my recommendation to pay the complainants compensation of £750.

Three other children and family services settlements resulted from delays in undertaking complaint investigations. I am concerned that these complaints appear to show a common theme of failing to meet deadlines in the statutory complaint procedure.

In a further complaint, the owner of a property used as temporary accommodation for young people sought payment for damage caused by residents placed there by your Council. You agreed to pay £1,170 to recognise delay in resolving the matter.

In an adult care case, your Council's own investigation found that the level of direct payments to the complainant to pay for the care of their spouse in their home had been insufficient, and that a further payment of over £8,000 should be made. The complainant thought this inadequate. I disagreed, but I did consider, in addition to financial loss, that the complainant had suffered distress and you agreed to pay a further £500.

### **Education complaints**

I have referred to complaints about education separately because they represent a large proportion of complaints against your Council. This also provides an opportunity to look more closely at the types of complaints and their outcomes.

## **School admissions**

I do not generally consider complaints about the allocation of school places because there is a statutory right of appeal to an independent panel. More often, I consider complaints about the administration or conduct of the appeals themselves. In 2009/10 I decided 17 complaints about school admissions. It is worth putting this in the context of the number of school applications made and appeals heard: I understand that in Hertfordshire there are in the order of 1,000 appeals heard in relation to community and voluntary-controlled schools each year. Your Council also arranges an increasing number of appeals on behalf of the governors of voluntary-aided and foundation schools, which do not appear in our statistics about your Council. This could suggest a high level of satisfaction with the work which you carry out in this area.

One case highlighted the difficulty in resolving complaints relating to infant class limits. Here, the law limits what action an admission authority can take. Your Council had wrongly offered places to some children based on inaccurate home-to-school distance calculations. (This distance was a key criterion for deciding which children would be offered a place at the school.) Quite understandably, the children who would otherwise have been offered places were also admitted, which the law permits. If the original error had not occurred, the complainant's child would have been the first unsuccessful child to be offered a place if one became available. The child would have been offered a place but, as the Council's earlier mistake meant the class already exceeded the normal statutory limit (of 30 pupils), no offer was made. While the complainant's sense of grievance was understandable, this decision was reasonable. Your Council agreed to make a payment of £250 to recognise the complainant's time and trouble in pursuing the complaint. With another complaint, the school's case had not been provided before the original appeal, so the complainant was not able to challenge the information: a fresh appeal before a new appeal panel was agreed. And in another case a place was offered to the child in the course of my enquiries.

In the other admissions complaints I either concluded that there had been no fault, or that the level of injustice arising from any fault was insignificant. This second group typically includes cases where there had been some minor failing in the admissions process but this could not reasonably be considered to have altered the outcome of the particular application. These cases do provide an opportunity to suggest improvements and I am grateful for the positive way in which such suggestions are received.

In one example, the school gave preference to children living within certain parishes and the complainants, who lived very close to a parish boundary, wrongly believed that they lived in one of these. I felt that it could be made clearer to parents generally how they could establish in which they live although, in this case, they were informed of the correct position before an application was made. I did not consider that any injustice had been caused to the complainants, but I am pleased to see that clear guidance regarding parishes and priority areas is now given in your admission publications.

## **School transport**

I decided six complaints about school transport in 2009/10: three resulted in local settlements.

In one, the parents said that part of your Councils' website contained details of a previous policy on free home-to-school transport, rather than the policy actually in place. They argued that their preference for a particular school was influenced by the mistaken belief that their child would qualify for free transport. The parents were correct about the superseded policy, but I concluded that they would not have qualified for free school transport under either policy and, if this issue was crucial in their choice of school, they might have established this before applying. Your Council recognised that there had been fault and made a payment of £100 and provided a bus pass for a year. I sought nothing further.

In a further case, the complainants believed that your policy had not been properly applied and that the officer review panel had not properly considered the case put forward at appeal. I did not find this to be the case. However, your Council had initially informed the complainants that their appeal had been successful and there was also some avoidable delay in arranging the appeal. The Council subsequently reviewed matters and, in view of the complainant's financial circumstances, gave full assistance, if required up to Year 11. I welcomed this remedy. A third case was resolved to the complainant's satisfaction when transport was agreed during the investigation.

In the other three cases, the issue was essentially about the merits of decisions which were taken about the application of your transport policy and I did not find that there had been fault.

### ***Special Educational Needs (SEN)***

I decided eight complaints against your Council relating to children with special educational needs last year. Five of these resulted in a local settlement. One was simply, that, after a complaint was made about an unfavourable decision, your Council changed its view.

Your Council agreed to reimburse the cost of alternative educational provision and transport costs for a period when, in another case, the complainants' child was not attending school following exclusion. A further case concerned an accepted failure to provide continuous education after a child was excluded. To address the loss to the child, it was agreed that the Council would provide additional educational support: your Council provided tuition with which the complainant was satisfied.

In another case, I concluded that there had been some fault in not providing home education when a child stopped attending the school named in a SEN statement. My view of injustice was tempered by the fact that a place at the school was always available, and I viewed a payment of £300 as reasonable to address the complainants' uncertainty and their time and trouble in pursuing the matter. Your Council agreed this, and to ensure that staff were fully aware of the appeal rights which exist in relation to SEN.

In the other complaint which was settled locally, papers relating to a review of a child's needs were lost. This resulted in the complainants paying for provision which would otherwise have been funded by your Council. You readily agreed to make a payment of £3,580 to cover the costs incurred by the complainants and their time and trouble. You also undertook to review procedures to prevent a recurrence.

Finally, one complaint was made outside the usual time limit of 12 months and I did not consider I should exercise my discretion to investigate it, and one was withdrawn by the complainant. In the final case, I exercised my discretion not to pursue the complaint further.

### ***Other Education Complaints***

I decided two other complaints about education matters. One concerned a student grant and related more to the student loan company than to your Council. In the other, the complainants were experiencing difficulties arranging a school place for a relative who was now residing with them. Although there was no apparent fault, the situation was swiftly resolved by the admissions team involved.

### ***Summary***

Although they represent a significant proportion of complaints about your Council, education complaints do not give rise to any particular concerns about this important area of your work.

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

The average time taken to respond to enquiries from my office was 32.4 days, slightly in excess of the target of 28 days. However, within this figure were some cases where that target was greatly exceeded. In particular, the average response time for adult care service complaints was 55.3 days, with 80 days in one instance. Education cases were generally much quicker, but one response to enquiries took 66 days. In contrast, we had a response on a highways and transport case in seven days and we received a same day reply in one children and family services case. I am aware that there have been organisational changes within your Council which I hope will bring about an improvement in your response times and in liaison with my staff more generally.

I note that three of your staff have attended seminars held in London for council link officers and I hope that they found this useful.

## **Training in complaint handling**

I am pleased that during 2009/10 we provided training in Effective Complaint Handling to staff from your authority who attended an open course in February 2010.

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>Adult care services</b> | <b>Children and family services</b> | <b>Education</b> | <b>Planning and building control</b> | <b>Transport and highways</b> | <b>Other</b> | <b>Total</b> |
|--|----------------------------|-------------------------------------|------------------|--------------------------------------|-------------------------------|--------------|--------------|
| Formal/informal premature complaints                     | 5                          | 6                                   | 1                | 0                                    | 1                             | 2            | 15           |
| Advice given   | 3                          | 2                                   | 5                | 3                                    | 3                             | 2            | 18           |
| Forwarded to investigative team (resubmitted prematures) | 0                          | 2                                   | 0                | 0                                    | 1                             | 0            | 3            |
| Forwarded to investigative team (new)                    | 7                          | 9                                   | 32               | 2                                    | 6                             | 4            | 60           |
| <b>Total</b>   | <b>15</b>                  | <b>19</b>                           | <b>38</b>        | <b>5</b>                             | <b>11</b>                     | <b>8</b>     | <b>96</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> |
|--------------------|----------------|-----------|---------------|----------------|---------------|-----------------|-----------------------------|--------------|
| <b>2009 / 2010</b> | <b>0</b>       | <b>20</b> | <b>0</b>      | <b>0</b>       | <b>12</b>     | <b>20</b>       | <b>7</b>                    | <b>59</b>    |

| Response times         | FIRST ENQUIRIES        |                            |
|------------------------|------------------------|----------------------------|
|                        | No. of First Enquiries | Avg no. of days to respond |
| 1/04/2009 / 31/03/2010 | 27                     | 32.3                       |
| 2008 / 2009            | 38                     | 29.3                       |
| 2007 / 2008            | 33                     | 31.6                       |

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

| 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            |