

**The Local Government Ombudsman's  
Annual Review  
South Hams District 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 South Hams District Council 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about South Hams District 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 we received 16 enquiries and complaints for your council. The figure for 2008/09 was 14. Four complaints were considered premature and were referred to the council to be considered first through your own complaints procedures. Advice only was given in two cases. The other 10 complaints were forwarded to the investigative team. Of these three complaints had previously been referred to the council as premature.

The subjects of the enquiries/complaints covered the range of council services but, as in previous years, the highest number concerned Planning and Building Control (six). Three other complaints received were about Housing, two about Benefits, two about Transport and Highways and one about Leisure and Culture.

## Complaint outcomes

Decisions were made on eleven complaints. One complaint was not pursued because it was outside my jurisdiction, the complainant being able to appeal to the Parking Services Tribunal. On another complaint, about planning advice given to a property owner, no evidence of maladministration was found.

Using the Ombudsman's discretion investigation was not pursued on four cases. Typically these are cases where even though there may have been some fault by the council the complainant had not been caused any significant injustice as a result of the matters complained about.

## 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 five were settled. This represents 50% of the decided complaints. A total of £6,940 was offered as a result of these agreed local settlements.

The local settlements are described below but I would first draw to your attention that in a number of complaints, the fault was clear and the council should have been able to resolve them through

its own complaints procedures. A robust and independent review stage for your complaints procedures and consideration of suitable remedies at that stage might have removed the need for some, if not all, of these complaints to be investigated by my office. My officers are always willing to offer advice on difficult cases or suitable remedies if it will assist your officers at any stage of your own complaints procedures.

## **Housing**

One complaint about housing allocations was settled by the offer of compensation of £750, when it was found that the council had not properly considered the complainants' applications over a lengthy period. This caused the complainants significant anxiety, uncertainty and inconvenience, but investigation showed that they would not have been offered accommodation any earlier but for the faults identified. The council also undertook to review procedures for handling application correspondence and telephone messages

In another case the complainant lost his home after a temporary housing officer, without any legal or delegated authority to do so, told him that he must immediately vacate the privately rented property he shared with his family. In the face of statements that the police and social services would be involved if he did not move out, the complainant believed he had no alternative. He was forced to move out of the area and did not see his sons for 16 weeks. The council agreed to offer compensation of £1,000 to reflect the significant distress and trouble suffered as a result of the temporary officer's actions. The amount of compensation recommended took account of the likelihood that the complainant would have lost his home at some point in the future even without the officer's intervention.

## **Planning**

On two unrelated complaints we recommended that the council obtain independent valuations of properties before and after the developments which were the subject of the complaint and to pay the difference to the complainants.

- In one case planning permission was issued in error for a substantial development close to the boundary with the complainant's property and the council failed to take agreed action to remedy this. The council accepted the recommendation to meet the complainant's costs for professional advice (£2,690) and to pay compensation of £1,000 as well as an independent valuation.
- In the other case the council wrongly granted a certificate of lawful development for part of a development which required planning permission and the evidence indicated that, if it had been applied for, planning permission for a balcony overlooking the complainant might have been refused. The council agreed to offer compensation of £250 in addition to the valuation.

In a complaint about the grant of planning permission for holiday chalets, investigation revealed that the council had failed to require plans showing ground and finished floor levels; failed to take action for a period of 18 months after the development began before necessary planning conditions had been met; and failed to take action on complaints about light pollution from the new development. The complainants suffered an extended period of uncertainty about whether action would be taken and about whether the height of the development had been properly addressed. The council agreed to offer compensation of £1,250, to reach a view on the outstanding planning conditions and to investigate the complaints about light pollution for planning and environmental health.

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

Formal enquiries were made on only three cases during the year. The average response time was 33 days. This is outside the target of 28 days but significantly better than the average for last year of 40.5 days. I hope that this improvement will be maintained.

The officers coordinating responses to our enquiries are helpful and co-operative. But my investigators have been concerned about the content of some of the responses to our enquiries and have found it necessary to make further enquiries which might have been avoidable. In one instance inaccurate information was provided, and in another case failure to respond to our enquiries and to repeated proposals for a local settlement, significantly exacerbated the injustice suffered by the complainant. If the council is experiencing difficulty in responding to our enquiries my investigators will be happy to discuss them with the officers preparing the responses to identify the best way forward. My Assistant Ombudsman would also be happy to visit your council to give a presentation to officers involved in preparing response on how we operate.

### **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**

This review has identified some areas for improvement in complaint handling for the council, for a robust and independent stage for your own complaints procedure and provision of information in response to my enquiries. My office is very willing to assist either on individual complaints or on complaints systems generally. I hope you will let us know if we can help in any way.

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.

**Dr Jane Martin  
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The Oaks No 2  
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CV4 8JB**

**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.

**Dr Jane Martin**  
**Local Government Ombudsman**  
**The Oaks No 2**  
**Westwood Way**  
**Westwood Business Park**  
**Coventry**  
**CV4 8JB**

**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>Public Finance inc. Local Taxation</b>	<b>Planning and building control</b>	<b>Transport and highways</b>	<b>Other</b>	<b>Total</b>
Formal/informal premature complaints	1	2	0	1	0	0	4
Advice given	0	0	1	1	0	0	2
Forwarded to investigative team (resubmitted prematures)	0	0	1	2	0	0	3
Forwarded to investigative team (new)	2	0	0	2	2	1	7
<b>Total</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>6</b>	<b>2</b>	<b>1</b>	<b>16</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>5</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>11</b>

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	3	33.0
2008 / 2009	6	40.5
2007 / 2008	11	37.3

**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