

**The Local Government Ombudsman's  
Annual Review  
Surrey 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 Surrey County Council 2009/10.....</b>	<b>3</b>
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	3
Liaison with the Local Government Ombudsman.....	6
Training in complaint handling.....	6
Conclusions.....	6
<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 Surrey County Council 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about Surrey 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 115 enquiries and complaints were received about your Council in 2009/10, little changed from 120 in the previous year. The majority of the contacts were about the four service areas of education (37), transport and highways (29), children and family services (18) and adult care services (14).

Seventy four complaints were passed to my investigative team to consider. Education complaints (29) were again the most numerous of the ones forwarded for investigation, and almost half (14) concerned school admissions. Six others related to special educational needs, and five to school transport.

The other main service areas which were subject to complaints were transport and highways (16, largely about highway management), children and family services (13) and adult care services (eight).

The remaining 41 enquiries and complaints were either premature because it did not appear that your Council had been given a reasonable opportunity to deal with the matter, or the prospective complainants were given informal advice about their options.

## Complaint outcomes

### *General*

This year I made 71 decisions on complaints against your Council. I closed 25 complaints because there was either no or insufficient evidence of fault to justify further investigation. I found another eight complaints were outside my jurisdiction. This was generally because the complainant had an alternative means to remedy matters which it was reasonable to expect them to have pursued, or because I was barred by statute from investigating the issue in question. Two examples of the latter were where the complaints concerned the complainant's pension or employment with the Council. I exercised my discretion not to pursue investigations into a further 21 complaints, including cases where the level of injustice claimed was insufficient to justify expending further resources on an investigation, or the Council had already agreed to take suitable action to remedy an injustice. For instance, I decided not to pursue two complaints about school admissions where the Council had offered acceptable school places soon after the complaints were submitted.

## **Reports**

When we complete an investigation, we generally issue a report. This year I published one report against your Council. It resulted from a joint investigation with the Health Service Ombudsman and concerned an allegation of fault in the process under which the complainant was detained under the Mental Health Act. The Health Service Ombudsman made a finding against the Health Care Commission about how it had handled the complaint, but I decided there had been no fault on the Council's part regarding its involvement in matters.

## **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, 25% (16) were resolved in this way. So this is very much in line with the norm.

The settlements I agreed resulted in the Council paying a total of £10,535 compensation, and other action was taken to remedy matters and to improve working practices.

## **Complaints by main subject areas**

### **Education - School admissions**

I do not generally consider complaints about the allocation of school places by admission authorities because parents have a statutory right of appeal to an independent panel about that matter: with school admissions complaints I normally look at the way the panel's decision was reached. In 2009/10 I decided 15 complaints about school admissions.

I found no or insufficient evidence of maladministration to pursue an investigation in six cases and I exercised my discretion not to pursue matters in a further seven instances where there was insufficient injustice to warrant my continued involvement. This second group included 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. But they sometimes provide an opportunity to suggest improvements and I am grateful for the positive way in which such suggestions are received. In one example, panel members' seemingly inappropriate interventions at the hearing led to me to ask the Council to remind panel members about the relevant statutory guidance. The Council agreed this, and to address the matter in future training for all panel members.

I agreed two settlements this year in respect of school admissions complaints. One involved a relatively minor matter concerning the Council's complaints procedure and was remedied with an apology and proceeding with the matter through the procedure. The other case involved a school which did not fill ad hoc vacancies for pupils in a fair way. I concluded the complainant's child should have been offered a place at the school almost two terms sooner than happened. There was also fault in the conduct of the complainant's appeal, because the panel mistakenly understood the child had only just started at the school where they were unhappy. The Council had already amended its waiting list procedures, and agreed to hold a fresh appeal and pay £500 compensation in order to remedy the particular injustice suffered by the complainant.

### **Education - School transport**

I decided four complaints about school transport in 2009/10: three resulted in local settlements. Two of these related to comparatively minor issues of fault.

The third case involved a complaint that the Council had failed to take account of the complainant's serious medical condition in refusing to provide assistance with home to school transport for their young child. The Council effectively settled matters to the complainant's satisfaction by bringing forward a case review by senior officers which decided to provide free transport.

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

I decided four complaints against your Council relating to children with special educational needs. I found no evidence of maladministration in one case and considered another was outside my jurisdiction.

Two complaints resulted in local settlements involving compensation payments. In one case the Council delayed in reassessing the complainant's son after the special school he was attending said that it was not a suitable placement. It also failed to provide consistent interim education while finding an alternative placement. To remedy the injustice caused, the Council agreed to pay the complainant £2,500 compensation: I understand the Council has already taken steps to improve its out of school provision.

In another case your Council agreed to reimburse the costs the complainant had incurred for specialist therapy for their child with severe needs. This should have been provided by the Council under the terms of the child's statement of special educational needs. Including a time and trouble payment, the total amount of compensation agreed was £2,485.

### **Adult care services**

In addition to the joint report, I decided nine other complaints about adult care services. Four were local settlements. I found no or insufficient grounds to pursue four cases and one fell outside my jurisdiction.

In one notable case, I found that the Council had delayed in dealing with a request for direct payments (to fund care needs) from a complainant who was registered blind. I concluded that the Council should have carried out an assessment and put full services in place a year sooner. The Council accepted that the complainant had been caused significant distress, inconvenience and uncertainty and agreed to pay £2,000 compensation as result.

### **Children and family services**

I came to a decision on 10 complaints in this area. I concluded the Council was not at fault in two cases and exercised my discretion not to continue with investigations in five other cases where there was insufficient injustice to pursue matters.

I agreed three local settlements. In one case compensation of £1,250 was felt appropriate where the Council had delayed in completing a core assessment of the complainant and her son. Compensation payments of £400 and £500 were also agreed in respect of two complaints involving a child with autism and a child with a severe heart condition. These were complex cases for the Council to deal with, but I found some communication failures in the first, and in the second the rationale for the Council's seemingly contradictory decisions was not properly explained.

## **Transport and highways**

I decided 17 complaints in this area. 12 of these complaints related to highway management issues such as flooding, the maintenance of hedges and road signs, and damage to vehicles. I found no or insufficient evidence of maladministration to pursue, or used my discretion not to pursue matters because of lack of injustice, in nine cases. I considered the other three complaints were outside my jurisdiction, for instance, because the complainant had an alternative means of remedying matters through the courts and I considered it was reasonable to expect the complainant to use this remedy.

I agreed one local settlement, on a complaint regarding a public transport issue. In that case the Council did not conduct a fair review of its decision to refuse the complainant's authorisation as a driver of school transport. The Council remedied matters by agreeing to hold a fresh review. I found no grounds to fault the administration of this second review, or to question the refusal decision that was made on that occasion.

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

We ask councils to respond to our enquiries within 28 days. The Council's average response time this year was 26.7 days, up from last year's average of around 23 days, but still within our target timescale overall. I would particularly commend the Council for its generally prompt and comprehensive responses to our enquiries concerning school admission complaints. We always aim to prioritise these because the looming autumn term is usually an important deadline for complainants.

I have commented in previous years on the Council's positive response to complaints and our enquiries. I am aware that my investigators have continued to have regular and constructive contacts throughout this year with your complaints staff and officers in relevant service areas, particularly in education and adult care services. I have noted a number of further appreciative comments about your officers' cooperation with our enquiries and willingness to acknowledge fault and provide appropriate remedies where matters have gone wrong. I hope that we can continue to develop these positive ways of working together in dealing with complaints and resolving any issues that arise. This can only be good for complainants.

## **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 am pleased that during 2009/10 we provided three training courses in Good Complaint Handling and Effective Complaint Handling to a number of staff from your authority. I also note that one of your officers was able to attend one of our seminars on *making experience count* for adult social care complaints officers, and another staff member attended one of our seminars for council link officers. I hope that all the participants found these courses and seminars to be useful.

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>Housing</b>	<b>Planning and building control</b>	<b>Transport and highways</b>	<b>Other</b>	<b>Total</b>
Formal/informal premature complaints	3	2	2	0	3	8	2	20
Advice given	3	3	6	0	1	4	3	20
Forwarded to investigative team (resubmitted prematures)	0	2	1	0	0	6	0	9
Forwarded to investigative team (new)	8	11	28	1	1	10	6	65
<b>Total</b>	<b>14</b>	<b>18</b>	<b>37</b>	<b>1</b>	<b>5</b>	<b>28</b>	<b>11</b>	<b>114</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>16</b>	<b>0</b>	<b>1</b>	<b>25</b>	<b>21</b>	<b>8</b>	<b>71</b>

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	35	26.7
2008 / 2009	40	22.9
2007 / 2008	36	31.2

**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