

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

## Introduction

This annual review provides a summary of the complaints we have dealt with about West Sussex County Council. We have included comments on the Council'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

Last year our Advice Team dealt with 81 enquiries and complaints about your authority. This is an increase from 66 received in 2008/09.

Of these enquiries and complaints received, 12 related to complaints that were deemed to be premature and so were referred back to your Authority for investigation. We provided advice to 10 other people who contacted the Advice Centre.

Our Advice Team forwarded 59 complaints to the investigative team, which was about a quarter up on the number referred in 2008/09 (46). Seven of the complaints forwarded for investigation were ones which had been referred to the Authority as premature but had subsequently been referred back to the Advice Team because the complainants were not satisfied by the Council's responses. In the previous year five complaints were resubmitted.

More than half the complaints which were forwarded to the investigative teams were about education (31), 11 were about adult care services and nine were about transport and highways.

## Complaint outcomes

I made decisions on 53 complaints against your Council during 2009/10. There were six cases that were outside my jurisdiction. In 19 cases I found no fault and in 19 exercised my discretion not to pursue the complaint, often because the injustice suffered was not sufficient to justify an investigation. I agreed nine local settlements.

## Reports

When we complete an investigation, we generally issue a report. This year we did not issue any reports against your Council.

## Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, an authority 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 47 complaints we decided against your Authority which were within

our jurisdiction nine (19%) were local settlements; this is less than the average. Your Authority paid £3,562 in settlements, less than a third of what was paid in the previous year, although that figure was distorted because of a large settlement in one of the reports which I issued.

Two of the largest settlements were in complaints relating to special needs provision in education. The first was about a delay in the process for assessment of the need for a Statement of special educational needs. It was clear that the child, who was on the autism spectrum, would need an alternative school for September 2008, but only one school was approached, and this school could not meet the child's needs. The child started in a new school in January 2009 but it was clear that if the school had been approached sooner, the child could have started there earlier. Your Council agreed to pay the complainants £1,250 for lost education and £250 for the time and trouble they had been put to.

In the second complaint about special educational needs, it was my investigator's view that the Council did not provide the occupational therapy for the complainant's child which was set out in the statement of educational needs for a period of three months. The Council maintained that its failure to make this provision was because of a shortage of therapists in the area. The Council agreed to compensate this loss of provision by a payment of £1,500.

A complaint was made by a firm of design consultants that it had been improperly excluded from a list of approved suppliers to the Council. The investigation of the complaint revealed that there had been numerous inconsistencies with the assessment and scoring of bids to be included in the list. However, it appeared that even though there was fault in the process, the complainant had not been disadvantaged by the Council's decision not to include it, as it would not have been included even if the faults had not arisen. The Council agreed to compensate the complainant for the time and trouble he had been put to in bringing his complaint and to cancel the existing list. The Council would arrange for an urgent review of its tendering process to ensure that similar problems would not arise again and for a new list to be put in place as soon as practicable.

In a complaint about highways management, the Council had given a date when repairs to a road would be carried out, but then delayed doing the work. The damage was not major, so the injustice was limited, but the Council agreed to pay £50 for the time and trouble the complainant was put to in having to pursue the complaint.

There was one settlement of a complaint about children's services. The Council had agreed to act as guarantor, to help a young person secure rented accommodation. It was unaware of the introduction of the new Local Housing Allowance scheme and, at the last moment, reversed its decision because of the impact of the new scheme. As a result, the young person was unable to find accommodation. Although the Council had no obligation to provide a guarantee, the way it went about making its decision was flawed. The Council agreed to provide a detailed explanation and apology, and pay compensation of £200 to acknowledge the missed opportunity to assess the person's needs properly. It also provided details of changes it had made to its procedures.

There were 18 decisions on complaints about school admissions. In one case, a fresh appeal hearing was allowed, and in another a place was granted for the complainant's child when it was decided that an extra class would be opened. In two other complaints, places were granted for the complainants' children from the waiting list while the cases were being investigated.

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

The average time for your Authority to reply to our written enquiries last year was 29.2 days which is just over our target period of 28 days. 62% of County Councils manage to attain this target. I note that the time for your Authority to respond to our enquiries has risen to this level from 17 days in the previous two years.

## **Training in complaint handling**

I am pleased that during 2009/10 one of your link officers attended a seminar on dealing with the new statutory procedure for adult social care complaints. We also met two of your officers who attended a seminar for link officers in London.

I would like to take this opportunity to remind the Authority 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.

## **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.

**Tony Redmond  
Local Government Ombudsman  
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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.

**Tony Redmond**  
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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	6	1	0	0	2	3	0	12
Advice given	1	3	1	0	1	2	2	10
Forwarded to investigative team (resubmitted prematures)	2	0	2	0	1	2	0	7
Forwarded to investigative team (new)	9	2	29	1	1	7	4	53
<b>Total</b>	<b>18</b>	<b>6</b>	<b>32</b>	<b>1</b>	<b>5</b>	<b>14</b>	<b>6</b>	<b>82</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>9</b>	<b>0</b>	<b>0</b>	<b>19</b>	<b>19</b>	<b>6</b>	<b>53</b>

**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	40	29.2
2008 / 2009	25	17.4
2007 / 2008	20	17.9

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