

**The Local Government Ombudsman's  
Annual Review  
York City 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 York City Council 2009/10

## Introduction

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

In 2009/10 we received 42 complaints and enquiries against your council, compared with 57 in 2008/09. Twelve were about adult care services, nine about housing, four about transport and highways, three were about planning and building control, two were about children and family services, one each about benefits and public finance, and ten about other areas, such as anti-social behaviour and environmental health.

We treated six of these complaints as premature and referred them to the council and in a further six cases advice was given, usually to make a complaint to the council direct. The remaining 30 complaints were forwarded to the investigative team, of which seven were premature complaints that had been resubmitted.

## Complaint outcomes

In 2009/10 we took decisions on 25 complaints. My predecessor issued a report in one case and in 13 cases we found no or insufficient evidence of maladministration. Four complaints were outside jurisdiction and in four cases the council agreed to settle the complaint locally. Using the Ombudsman's discretion, a further three cases were not investigated. Typically these are cases where, even though there may have been some fault by the council, there is no significant injustice to the complainant.

## Reports

When we complete an investigation, we generally issue a report. This year we issued one report about a planning matter. The council gave the complainant incorrect advice when they were renovating a Georgian terraced property. It said that planning permission was required for alterations to a front bay window, and that permission would only be granted for a square bay rather than the bow-shaped window that the complainant preferred, so that the house matched with the neighbouring property (which had a square bay window). But then the owner of the adjacent property carried out renovations to his property including a bow-shaped bay window at the front. The complainant was unhappy because they installed a window that they did not want on the basis of the council's advice, and now the property was the 'odd one out' with a square bay window.

We concluded that the council's advice had been incorrect and it was reasonable for the complainant to have relied on that advice. If the council had advised the complainant correctly they

would have been able to pursue the original plans of a bow-shaped bay window as permitted development.

We recommended that the council pay the reasonable costs of installing the bay window of the complainant's choice and also pay £250 for her time and trouble in pursuing her complaint. The council paid the compensation but it is disappointing that it took almost a year from issuing the report for it to authorise replacement of the window.

## **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 four were local settlements (19.4%), and the council paid a total of £3,250 in compensation.

Two of the complaints the council settled were about adult care services. In one case the council delayed for four months in providing 24 hour care, seven days a week for the complainant's elderly and disabled father. It also failed to communicate adequately with the complainant and failed to assess the complainant's needs as a carer, or those of each of her parents. The council had already upheld the complaint in full but had only offered £500 compensation. After our involvement the council agreed to increase the compensation to £2,500 and compensate the complainant for loss of earnings. This sum represented £1,000 for the considerable anxiety caused to the complainant and her family, £250 for the failures in communication and £1250 in respect of the four months delay in providing the 24/7 at home care service for her father.

In the second complaint the council missed or severely delayed a number of home care calls which should have been made to the complainant over a four month period in 2009. These failures were exacerbated by the fact that the council had just made a series of recommendations following a complaint about earlier missed calls which should have resulted in the implementation of service improvements. The complainant was caused distress and inconvenience and the complainant's family were put to considerable time and trouble in pursuing the complaint. The council conducted an internal review and made the following recommendations:

- an apology to the complainant and family;
- guidelines for carers regarding meeting up at the start of a shift to be extended to agency workers as well as council staff;
- rotas to be checked by two team leaders each week to ensure they are accurately transferred into the rota diary;
- all managers and staff to be as honest as possible with customers when mistakes are made;
- team leaders on call or care staff on duty to have access to customer contact details in the event of delays to planned calls; and
- written guidance to be issued about seeking medical advice if medication is not administered at the appropriate time for example doses of medications which may react with each other if too close together or too far apart.

The council also agreed to schedule a review to make sure the changes were being complied with and paid the complainant £250 for their time and trouble in pursuing the complaint.

In another settled case about housing repairs the council delayed for ten weeks in completing repairs to the heating and hot water system causing inconvenience to the complainant. The council agreed to pay the complainant £200 compensation.

In the fourth settled case about anti-social behaviour and excessive noise from a neighbour, the

council had delayed for three months in acting on the complaints. During this period it could have carried out an investigation and referred the case to the Environmental Protection Unit who would then have been able to take enforcement action at an earlier stage. The complainant and their family suffered disturbance and difficulty at an especially critical time for the family, as they had a new-born baby. The council apologised and paid £300 compensation.

I am grateful to the council for its help in settling these complaints.

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

We made formal enquiries on eight complaints in 2009/10. In the annual review for 2008/09 my predecessor commented that at 35.3 days the council's average response times was still significantly outside our target time of 28 days. I am concerned to report that this has worsened significantly to 47.6 days. The problem this year has been exacerbated by the time taken to respond to two complaints about adult care services. In one the council took 140 days to respond and in the other 63 days. These figures are clearly unacceptable and I hope the council will take immediate steps to improve its performance in this area. If I discount these figures the average is brought down to 29.7 days only marginally outside our target time and I note there has been a particular improvement in the response time to planning and building control complaints (17.5 days) for which I am grateful.

### **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**

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**  
**Local Government Ombudsman**  
**The Oaks No 2**  
**Westwood Way**  
**Westwood Business Park**  
**Coventry**  
**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>Adult care services</b>	<b>Children and family services</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	2	1	1	0	1	0	0	1	6
Advice given	0	0	3	0	0	0	0	3	6
Forwarded to investigative team (resubmitted prematures)	2	0	0	0	0	2	1	2	7
Forwarded to investigative team (new)	8	1	5	1	0	1	3	4	23
<b>Total</b>	<b>12</b>	<b>2</b>	<b>9</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>4</b>	<b>10</b>	<b>42</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>
2009 / 2010	1	4	0	0	13	3	4	25

## 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	8	47.6
2008 / 2009	20	35.3
2007 / 2008	20	35.3

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