

24 June 2011

*By email*

Dr P Leinster  
Chief Executive  
Environment Agency

Our ref: JM/JB  
(Please quote our reference when contacting us and, if using email,  
please put the reference number in the email subject header)

Dear Dr Leinster

### **Annual Review Letter**

I am writing with our annual summary of statistics on the complaints made to me about your agency for the year ending 31 March 2011. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number that the Advice Team forwarded to my office and decisions made on complaints about your agency. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your agency to respond to written enquiries and the average response times by type of authority.

I would like to thank Mr Treacher and Mr Jones for attending our practice seminar on 16 May 2011. My staff found their presentations interesting and informative.

### ***Complaints received during 2010-11***

As you will see, we received 12 complaints about the agency in 2010/11, eight of which were referred for investigation. As you know, we consider it important to deal with complaints as swiftly as possible and response times to our enquiries are a significant factor in achieving timely outcomes. From formal enquiries made on 4 complaints this year, your average response time was 32.5 days which is above the 28 day target. I am aware that the agency's procedures for responding to Ombudsman's complaints makes it difficult to meet the deadline and I am grateful for your efforts to do so in the interest of timely complaint decisions. I would be happy to discuss further how best to work together to achieve this.

I am also aware of concern about the numbers of complaints that are being investigated before the

complainant has exhausted the agency's formal complaint procedure. Our Advice Team has agreed that, when it receives a complaint against the Environment Agency in future, a telephone call will be made to Mr Treacher or one of his colleagues if he is unavailable, to find out if a complaint has been presented to the agency and/or if the agency would like an opportunity to consider it first of all. Please note however that I have discretion to take a complaint prematurely if necessary.

I am pleased to say that the investigative team have found the agency's responses to their enquiries to be very clear, thorough and focused on the key issues.

### ***Complaint outcomes***

We decided seven complaints during the year. In three cases we found no evidence of maladministration and in one case we decided to discontinue the investigation as we considered that there was insufficient injustice caused to the complainant to warrant further investigation.

I would like to thank the agency for agreeing to settle two complaints. One of these was about a culvert. The complainant complained that he had incurred legal expenses unnecessarily due to the inaccurate positioning of a culvert on the main river map maintained by the agency, that the agency delayed in responding to correspondence about a proposed deed and that the agency's offer to meet only part of the legal fees he had incurred was not reasonable. The agency accepted that there was an error in the records that you are required by law to maintain. The agency failed to take a position in whether you had jurisdiction over the culvert at the outset. Had its normal practice been applied to this case, the complainant would not have had to apply for flood risk consent in the first place and so it would not have been necessary to appeal against the refusal of consent. The agency accepted that failure to reply to correspondence about a proposed deed was maladministration. To settle this complaint the agency agreed to pay £2000 to the complainant in recognition of the errors that had been made and to send an appropriate letter of apology. My investigator considered that this was a reasonable settlement of the complaint.

In a further case, a complaint that the local planning authority and the agency had failed to properly assess the flood risk to the complainants during the consideration of a planning application for the development of a new hospital or to put adequate measures in place to mitigate the risk of flooding, the local planning authority agreed to take steps to resolve the complaint. There was no indication that the decision to grant planning permission was the result of maladministration and it was found that the issue of flood risk had been examined by agencies with the appropriate technical expertise. There was no proven link between the construction of the hospital and the flooding which occurred subsequently.

I welcome the agency's willingness to consider actions it can take to remedy complaints whenever appropriate.

### ***Communicating decisions***

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. My next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further transparency to our work.

### ***Extended powers***

During 2010/11 our powers were extended to deal with complaints in two significant areas.

In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. The increasing number of people who arrange and pay for their own social care now have the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 75 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

Our new powers coincided with the introduction of Treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

### ***Assisting councils to improve***

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. During 2010/11 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.

These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

Details of training opportunities are on our web site at [www.lgo.org.uk/training-councils/](http://www.lgo.org.uk/training-councils/)

More details of our work over the year will be included in the 2010/11 Annual Report. This will be published on our website at the same time as the annual review letters for all councils (14 July).

If it would be helpful to your agency I should be pleased to arrange for me or a senior manager to meet and explain our work in greater detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Martin', with a horizontal line underneath.

Dr Jane Martin  
Local Government Ombudsman

For information on interpretation of statistics click on this link to go to [www.lgo.org.uk/CouncilsPerformance](http://www.lgo.org.uk/CouncilsPerformance)

## LGO Advice Team

<b>Enquiries and complaints received</b>	Environmental Services & Public Protection & Regulation	Highways & Transport	Planning & Development	Total
Formal/informal premature complaints	3	0	0	3
Advice given	1	0	0	1
Forwarded in investigative team (resubmitted)	2	0	0	2
Forwarded to investigative team (new)	3	0	3	6
<b>Total</b>	<b>9</b>	<b>0</b>	<b>3</b>	<b>12</b>

## Investigative Team

<b>Decisions</b>	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
<b>2010 / 2011</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>7</b>

No adult social care decisions were made in the period

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	4	32.5
2009 / 2010	5	30.8
2008 / 2009	2	35.0

**Provisional comparative response times 01/04/2010 to 31/03/2011**

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	65	23	12
Unitary authorities	59	28	13
Metropolitan authorities	64	19	17
County councils	66	17	17
London boroughs	64	30	6
National parks authorities	75	25	0