

Deputy Chief Executive's Office
Dean Taylor

TO MEMBERS OF Audit and Governance Committee:

ACR Chappell (Chairman), MJ Fishley, JHR Goodwin,
AW Johnson, PJ McCaull, RH Smith (Vice-Chairman) and
AM Toon

Your Ref: N/A
Our Ref: Friday 17 September 2010
Please ask for: Sally Cole
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23rd September 2010

Dear Councillor,

**Audit and Governance Committee - Friday 17 September 2010 -SUPPLEMENTARY
REPORT**

Please find attached a supplementary report that was not available prior to the publication of the agenda for the forthcoming meeting of Audit and Governance Committee . Please bring these papers to the meeting.

13. MONITORING OFFICER REPORT

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Yours sincerely,

**SALLY COLE
COMMITTEE MANAGER EXECUTIVE
ASSISTANT CHIEF EXECUTIVE'S OFFICE, LEGAL AND DEMOCRATIC**

MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	17 SEPTEMBER 2010
TITLE OF REPORT:	MONITORING OFFICER REPORT 2009-10

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To inform the Committee about the matters within the responsibility of the Monitoring Officer and the Council's performance for 2009-10 with regard to the complaints to the Ombudsman and the standards framework.

Background

This report forms the regular report from the Monitoring Officer to the Audit and Governance Committee.

Recommendation

THAT: the Committee notes the content of the report and provides comments and feedback to the Monitoring Officer.

Key Points Summary

- The Monitoring Officer's activities in the period from June 2009 to date have focused on:
 - A Constitutional review programme – now in Phase 3
 - Ensuring that Legal and Democratic Services support good governance and high standards of conduct and probity as well as fulfilling the day to day functions
 - Supporting the Shared Services project with emphasis on governance and developing the organisational model and heads of terms
 - Dealing with all Monitoring Officer activities with emphasis on the Standards framework
 - Dealing with Ombudsman complaints
- The Monitoring Officer has made no formal statutory report to Council on any actual or intended unlawful activities since June 2009

Further information on the subject of this report is available from
Ms Charlie Adan, Assistant Chief Executive – Legal and Democratic on (01432) 260200

- The Monitoring Officer has dealt with a number of enquiries and investigations during the period
- The handling of Ombudsman complaints and decisions

These activities are complimented by and are in addition to the day to day core support and other functions of the Legal and Democratic Services teams.

Alternative Options

- 1 There are no alternative options. This report is for information only.

Reasons for Recommendations

- 2 The Monitoring Officer is required to report on her activities as set out in this report and the Audit and Governance Committee should note the report and provide comments and feedback.

Introduction and Background

- 3 The Committee is aware that the role of the Monitoring Officer is a statutory office whose duties are set out in the Local Government and Housing Act 1989 and the Local Government Act 2000.

The main responsibilities of the Monitoring Officer are to ensure that the Council, its elected Councillors and its staff act with probity and that all the Council's activities are in accordance with the law and the Council's constitution. The Monitoring Officer has responsibility for ensuring that the Council avoids maladministration and that it responds appropriately to the Local Government Ombudsman in that regard. The Monitoring Officer is also responsible for supporting the local Standards Committee and for administering the local standards framework. The Monitoring Officer's responsibilities dovetail with those of the other statutory officers; the Head of Paid Service (Chief Executive) and s.151 Finance Officer (Director of Resources).

The Council must designate one of its officers as Monitoring Officer and the Council's constitution states that the Assistant Chief Executive – Legal and Democratic will fulfil these duties. Since the retirement of the former Assistant Chief Executive in June 2009, the interim Assistant Chief Executive – Legal and Democratic has fulfilled these duties. The post of Assistant Chief Executive – Legal and Democratic is being replaced by a new post of Assistant Director – Law and Governance and the Council's Constitution provides for that new post to be designated as Monitoring Officer as soon as a new appointee is in post.

The Monitoring Officer duties are to be exercised independently and are the personal responsibility of the designated officer who is required to report his/her activities regularly to the Council. The Council has nominated the Audit and Governance Committee to receive this report. The last report to the Committee was in March 2009 and this report covers the period from April 2009 to date. The Committee will receive a full report on the full year 2010/11 in May/June 2011.

Key Considerations

- 4 The interim Assistant Chief Executive – Legal and Democratic Services started working with the Council in June 2009 and has been designated Monitoring Officer since that time. Her activities have focused on:

1. Updating and producing a new Constitution for the Council, reviewing the PCT Board developing integrated governance across the HPS partnership. In particular, the following has been achieved in the Council:
 - a. A new Council Constitution and an ongoing process of constitutional review led by a cross party Constitutional Review Working Group and to which the Audit and Governance Committee has contributed. The Code of Corporate Governance has been incorporated as a preamble to the Constitution. The Constitution has been the subject of a technical redraft. All changes to date have been approved by Council with cross party support. The Constitution is more accessible and more easily understood. Further work is continuing on Phase 3 of this process including a review of the arrangements for the discharge of the Council's regulatory functions and a review of the Financial Rules.
 - b. Training of officers and elected members on the new Constitution and the development of member and officer development programmes to build greater awareness of governance issues including preparing a new revised member induction programme for May 2011.
 - c. The development of a new Functions Scheme (scheme of delegation) and the development of a new Chief Executive's scheme of delegation and review and updating of Directorate schemes of delegation (ongoing).
 - d. The development of a new forward planning and agenda management process linking executive and Council agenda planning and decision making with service, directorate and corporate planning and decision making and the creation of a new cross Council (and PCT) agenda management network and the roll out of guidance and training on the new processes. This will assist with proper effective governance by ensuring a "no surprises" approach and help plan for pre-decision scrutiny.
2. Ensuring the Legal and Democratic Services functions were fit for purpose and supporting good governance and high standards of probity and conduct across the HPS partnership
 - a. Undertaking a review of the functions and the management arrangements with service managers and with input from staff at consultation away day events
 - b. The provision of interim senior support for the Election 2010 and a restructure of the Elections team and agreement with the Returning Officer for the recruitment of a new senior Electoral Services manager (ongoing)
 - c. A proposed new management structure for the services to be aligned with the overall organisational design project (due to be finalised in October 2010)
 - d. Development of the remit of Legal and Democratic teams and team members to improve support to democratic and decision making processes whilst maintaining legal support to front line services including all legal casework and day to day democratic support functions.
 - e. A review of the outside bodies on which the Council is represented, the preparation of guidance for members and officers supporting outside bodies and putting in place nominated support officers for members representing the Council on key outside bodies (ongoing)
3. Supporting the further integration of HPS management and the development of the shared

support services

- a. Supporting the Shared Services team on all legal issues arising as the project progresses with particular emphasis on the evaluation and development of the organisational models and the Heads of Terms of agreement between the partners (ongoing)
 - b. Developing the proposals for a Legal Services shared service to deliver improvements in service and efficiencies in line with the shared service objectives and principles (ongoing)
4. Dealing with any specific Monitoring officer activities and in particular improving the support and functioning of the support to the Standards Committee and administration of the Standards framework
- a. Supporting the activities of the Standards committee as reported in its annual report to Council on 28 May 2010 including the processing of 55 (including 48 parish) complaints between January 2009 and May 2010.
 - b. Reviewing and re-aligning existing officer time and other resources to support the Standards Committee and undertaking a review of and making improvements to the internal standards support arrangements.
 - c. Reviewing and issuing new guidance and information on standards matters including the development of a new guidance note for councillors on blogging and social networking
 - d. Conducting and commissioning standards and other investigations, including a series of repetitive complaints about the management of Bromyard Downs Common and the actions of the Council in relation to a specific regulatory matter (both of which are ongoing issues)
 - e. Responding to a direction from Standards for England to the Monitoring Officer to take action in relation to Kington Town Council following a number of standards related complaints including conducting a governance review, putting in place a new Town Council complaints process, processing a large number of outstanding complaints, making improvements to the support arrangements for the council and considering further conciliation to improve relationships as directed.
5. Handling all Ombudsman cases referred to the Council for response and following up recommendations
- a. During the year ended 31 March 2009 the Ombudsman received 67 complaints about Herefordshire Council of which 32 were about planning and building control, 7 concerned adult care or children or family services, 6 related to transports and highways, 3 were about housing, 3 were about public finance and 1 was about benefits. The remaining 12 fell in the "other" category. Appendix 1 contains the Ombudsman's Annual Review for Herefordshire Council for this period. There were no formal reports finding maladministration issued. There was one complaint that resulted in a local settlement.
 - b. During the year ended 31 March 2010 the Ombudsman received 44 complaints about Herefordshire Council of which 20 were about planning and building control, 5 concerned adult care or children or family services, 4 related to transports and highways, 1 was about education, 1 was about housing, and 1 was about public

finance. The remaining 11 fell in the “other” category. Appendix 2 contains the Ombudsman’s Annual Review for Herefordshire Council for this period. Although the overall level of complaints to the Ombudsman fell, there were 2 complaints settled locally and a formal report of a finding of maladministration causing an injustice was issued in relation to one complaint. That formal report was reported to full Council as required.

Community Impact

- 5 Compliance with its legal obligations, effective governance and high standards of conduct impact on the council’s relationship with and its ability to lead the communities of Herefordshire. In addition, the Monitoring Officer has responsibility (working with Herefordshire Association of Local Councils) for standards in Parish Councils and for the operation of the standards framework and Code of Conduct for parish councillors. Parish Councils are also important to the communities they serve. The activities of the Monitoring Officer have the potential to have a positive impact on communities.

Financial Implications

- 6 There is no separate funding for Monitoring Officer activities. The Legal and Democratic Services teams, and in particular Democratic and Legal Services support the Monitoring Officer in fulfilling her functions and have made a significant contribution to the activities set out in this report and ensuring legal compliance and good governance across the Council (and its wider HPS partnership).

Legal Implications

- 7 The proper discharge of the Monitoring Officer functions is critical to ensuring that the Council is acting lawfully and that the legal implications of its activities are fully understood and acted upon appropriately.

Risk Management

- 8 The Corporate Risk Manager reports to the Monitoring officer and is responsible for ensuring effective risk management systems and processes are in place across the Council, that those systems and processes are being complied with and that risk registers and risk management reporting and monitoring is taking place at all levels as required with significant corporate and strategic risks being escalated to senior management and elected members as appropriate.

Consultees

- 9 None

Appendices

- 10 Appendix 1 – Ombudsman Annual Review 2008-9
Appendix 2 – Ombudsman Annual Review 2009-10

Background Papers

- None identified.

**The Local Government Ombudsman's
Annual Review
Herefordshire Council
for the year ended
31 March 2009**

The Local Government Ombudsman (LGO) provides 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, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses 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 Herefordshire Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Herefordshire 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 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

Our Advice Team received 67 complaints and enquiries during the year. Of these 32 were about planning and building control, seven concerned adult care or children and family services, three related to education, three were about housing, one about benefits, three concerned public finance and six involved transport and highways. A further 12 fell into the 'other' category.

We treated 18 of those complaints and enquiries as premature and in a further 17 cases advice was given, usually to make a complaint direct to the Council. The remaining 32 complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 25 complaints against the Council during the year. In 15 of those cases I found no evidence of maladministration. In two cases I used my discretion not to investigate. Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant. In seven cases I took the view that the matters complained of were outside my jurisdiction and so they were not investigated.

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 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your Council one was concluded by way of a local settlement.

This concerned a complaint on behalf of the users of a day centre. The Council introduced the use of some rooms in a purpose-built day centre as office space by a new Carers Hub operation, without either consulting or telling service users. This caused some loss of facilities for service users on at least a temporary basis. The Council apologised and belatedly consulted users of the centre on the options available to continue shared use.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 14 complaints during the year. The average time taken by the Council to respond was 29.3 days which is slower than last year and just outside the requested 28 days. However, I note that in two cases your Council's responses were posted within the 28 days but unfortunately not received for five and six days respectively due to DX postal failures. If the responses had been received the next day, as is usually the case, I am satisfied the Council would have met the 28 day target.

I am pleased that one of your Council's officers attended this year's seminar for those responsible within councils for liaison with my office. I hope that she found it useful and that it has been of benefit in the Council's handling of complaints.

Training in complaint handling

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 Council's services.

J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB

June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a ‘statement of reasons’ for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council’s own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I 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 local 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.

**J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
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CV4 8JB**

June 2009

Appendix 1: Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

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.

Formal/informal prematures: 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 usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted 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 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 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 Ombudsman 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 Ombudsman'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 Ombudsman'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 2008/09

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

LGO Advice Team

Enquiries and complaints received	Adult care services	Children and family services	Education	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	1	0	2	1	0	10	0	3	18
Advice given	0	0	2	0	0	0	6	2	7	17
Forwarded to investigative team (resubmitted prematres)	0	0	0	1	0	0	2	0	1	4
Forwarded to investigative team (new)	3	2	1	0	0	3	14	4	1	28
Total	4	3	3	3	1	3	32	6	12	67

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction		Total
01/04/2008 / 31/03/2009	0	1	0	0	15	2	7		25

Response times

	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	14	29.3
2007 / 2008	23	23.1
2006 / 2007	29	29.3

Average local authority resp times 01/04/2008 to 31/03/2009

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	60	20	20
Unitary Authorities	56	35	9
Metropolitan Authorities	67	19	14
County Councils	62	32	6
London Boroughs	58	27	15
National Parks Authorities	100	0	0

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Section 1: Complaints about Herefordshire Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Herefordshire 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 44 complaints and enquiries against your council compared with 67 in 2008/09. Four were about children and family services, 20 about planning, four about transport and highways, one about adult care services, one about education, one about housing, one about public finance and 11 about other areas including anti-social behaviour, drainage and licensing.

We treated 11 of these complaints as premature and referred them to the council and in a further eight cases advice was given, usually to make a complaint to the council direct. The remaining 25 complaints were forwarded to the investigative team, of which six were premature complaints that had been resubmitted.

Complaint outcomes

In 2009/10 we took decisions on 25 complaints. In 10 cases we found no or insufficient evidence of maladministration. Six complaints were outside my jurisdiction and in two cases the council agreed to settle the complaint locally. We exercised discretion not to investigate a further six cases. 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 concerning a complaint about a planning application. My predecessor found that the council gave inadequate consideration to the complainants' amenity when determining a planning application for a new house on land adjacent to their property. The case report was inaccurate and failed to refer to windows in the new house that would face towards the complainants' property. The report also misquoted the separation distances involved. A post-decision request for the insertion of an extra upper floor window in the new house was wrongly dealt with as a minor amendment. The council based its further decision on an incorrect plan and never formally confirmed its approval of the additional window. The complainants considered that they were denied the opportunity to comment on the extra window and they have lost the privacy of their home.

My predecessor recommended that the council should pay the complainants £1,250 for their outrage, lost opportunity and uncertainty, that it should make them a formal apology for the mistakes identified and review its procedures and staff training on amendments to planning applications and planning permissions. I am pleased that the council has complied fully with that

recommendation.

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 two were local settlements (8%), and the council paid a total of £1,000 in compensation.

One of the settled complaints concerned children and family services. The council mishandled the original Stage 3 review of the complaint as a result of which the complainants were caused avoidable difficulty and uncertainty by an abortive and defective process that failed to fully address their concerns in a manner that they recognised as fair and transparent. My predecessor therefore recommended that the council make a payment of £500 for their time and trouble and the council agreed to this.

The second complaint was about a planning application. The complainants' neighbour applied for planning permission to erect a garage and carports adjacent to their property. Although the council complied with the minimum notification requirements by displaying a notice, it was positioned around the corner from the complainants' property and they did not see it. My predecessor was satisfied that the complainants' amenity was considered but, in view of the location of their property and the fact that they were most affected by the proposals, he considered that the council should also have placed a notice near to their property or notified them by letter. The council agreed to settle the complaint by paying the complainants £500 compensation for their lost opportunity to object to the application.

Liaison with the Local Government Ombudsman

We made formal enquiries on 13 complaints during the year. I am disappointed to report that the council's response times are slower than last year. The average response time during 2009/10 was 30.8 days which is outside the requested 28 day target. I note that in one complaint concerning a planning matter the council took 42 days to respond because additional information was provided by the complainants some time after enquiries had been made. This information was sent to the council with additional enquiries which resulted in the need for more time to respond. But, even if the council had responded within 28 days on this particular complaint, its average response time would still have been 29.8 days.

The response to enquiries made in respect of another complaint about planning and building control took 38 days, the response to a complaint about land took 45 days and the response to a complaint about licensing took 43 days. These three delayed responses significantly affected the average for this year. I would appreciate any steps the council can take to meet our target time of 28 days in the future.

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.

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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/

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

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

Enquiries and complaints received	Adult care services	Children and family services	Education	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	2	0	1	1	0	5	1	1	11
Advice given	1	1	0	0	0	0	4	1	1	8
Forwarded to investigative team (resubmitted premature)	0	0	0	0	0	0	2	0	4	6
Forwarded to investigative team (new)	0	1	1	0	0	1	9	2	5	19
Total	1	4	1	1	1	1	20	4	11	44

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	2	0	0	10	6	6	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	13	30.8
2008 / 2009	14	29.3
2007 / 2008	23	23.1

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

