

**The Local Government Ombudsman's  
Annual Review  
Herefordshire Council  
for the year ended  
31 March 2010**

Local Government Ombudsmen (LGOs) provide a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, we aim to get it put right by recommending a suitable remedy. We also use the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

# Contents of Annual Review

<b>Section 1: Complaints about Herefordshire Council 2009/10.....</b>	<b>3</b>
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	3
Liaison with the Local Government Ombudsman.....	4
Training in complaint handling.....	4
Conclusions.....	5
<b>Section 2: LGO developments.....</b>	<b>6</b>
Introduction.....	6
New schools complaints service launched.....	6
Adult social care: new powers from October.....	6
Council first.....	6
Training in complaint handling.....	7
Statements of reasons.....	7
Delivering public value.....	7
<b>Appendix 1: Notes to assist interpretation of the statistics 2009/10.....</b>	<b>8</b>
<b>Appendix 2: Local authority report 2009/10</b>	

# 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.

**Dr Jane Martin  
Local Government Ombudsman  
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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.

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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 prematures)	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
<b>Total</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>20</b>	<b>4</b>	<b>11</b>	<b>44</b>

## 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