

Local Government
OMBUDSMAN

**The Local Government Ombudsman's
Annual Letter
Wiltshire County Council
for the year ended
31 March 2008**

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 letters.

Annual Letter 2007/08 - Introduction

This annual letter provides a summary of the complaints we have received about Wiltshire County 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 letter will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two attachments form an integral part of this letter: statistical data covering a three year period and a note to help the interpretation of the statistics.

Complaints received

Volume and Character

Last year we saw an increase in the number of complaints against your authority from 25 in 2005/06 to 33. This year the number of complaints has dropped back to 24. The increase (and subsequent decrease) were almost entirely due to complaints in the areas of services for adults and for children and education. Complaints in the latter two areas have risen nationally this year; so the decline in this area is encouraging news for the Council. I discuss this issue in more detail below, however.

Decisions on complaints

Reports and local settlements

When we complete an investigation we issue a report. I issued one report against your authority this year. The complainant's wife, who was no longer able to manage her own affairs because she was suffering from Alzheimer's disease, had entered residential care at her own expense. At that time the complainant was told orally that when her funds reduced to a certain level, she would qualify for financial assistance from the Council. He was given a leaflet which explained that any income his wife received would have to be contributed towards her care and that "the [Adult Services] Department will meet the balance". The leaflet did not explain what "the balance" consisted of, or provide any worked calculation as an example. In fact the Council would only pay the balance up to a local limit; and the care home chosen charged over £200 a week more than that.

Several months later the complainant identified, through an independent financial adviser, a financial plan which would pay half his wife's care home fees for life for an initial down payment. He approached the Council to find out whether his wife would qualify for help from the Council. The Council confirmed that she would and the purchase was made.

It was only at this point that the Council clarified what "balance" it would pay, and the complainant discovered that he was personally liable to top up the fees, because the yield from the financial plan was treated as income towards the local limit. While I did not consider the leaflet misleading in itself, the Council failed to provide full information to the complainant at the time he required it. It should have told him clearly, in writing, the approximate amount his wife was likely to receive and clarified he was capable of making top-up payments which amounted to around £200 a week.

The leaflet had already been altered, but I took the view that a worked example would have been an appropriate addition. The Council could also consider providing, in advance of a placement, an individual calculation of the amount for which the client was likely to qualify. This would assist self-funders in choosing a home in which they can remain when funds approach the limit at which help can be given by the Council. The Council had already paid the complainant £150 compensation for his time and trouble complaining, and agreed to a further £1,000 and to apologise for the maladministration identified.

A 'local settlement' is a complaint where, during the course of our investigation, the Council has agreed to take some action which we consider is a satisfactory response to the complaint. The investigation is then discontinued. In 2007/08 the Local Government Ombudsmen determined some 27% of complaints by local settlement (excluding 'premature' complaints - where councils have not had a proper chance to deal with them - and those outside our jurisdiction).

Six complaints were settled locally: of these, four complainants were made payments of compensation totalling £22,508.

Two of these complaints, like the report referred to above, concerned care home fees. In both cases the complainants sought to challenge decisions that elderly relatives, admitted to care homes, were able to fund themselves from the value of their home. In one case, the challenge revolved around the circumstances in which the relative's family home had been disposed of some two years before the admission to a care home. The complainants said that the Council had not considered all the relevant facts. The Courts have held that such matters should be considered by a properly constituted Review Panel and, as this had not yet happened, the Council undertook to make arrangements for a Review Panel to consider the facts of the case.

The second case had already been before a Review Panel, but involved an unusual shared ownership agreement. Acting on legal advice, the Council had departed from the guidance provided by the Department of Health on charging for residential accommodation. This was not found to be maladministration. The Council had already agreed to make a deferred loan, so that relatives of the care home resident who lived at some distance were able to use the house when visiting her, which they did on a very regular basis. This appeared to be a suitable resolution to the problem; but there was a dispute as to the value the Council had placed on the property in order to make the loan. The Council settled this part of the complaint by agreeing to an independent valuation of the house.

Funding nursing or residential care is an issue very much in the public eye at present. A decision that someone can no longer be cared for at home is difficult both for clients and their families. The sums involved in paying for care can be substantial and most individuals can only fund themselves through the value of their former home. The rules regarding support for care home fees are complex, so it is essential that authorities communicate clearly, timeously, sympathetically and effectively with families in what can be emotionally charged situations; and that all decisions are clearly explained and justified.

Of the four complaints settled through compensation, one concerned the way in which a child protection investigation was undertaken. Compensation was based on a similar complaint determined last year, and there are no further lessons to be drawn.

The other three all concerned children with statements of Special Educational Needs. In one case the parents were excluded from a mediation meeting without notice. This, combined with a delay in reallocating the case when an officer took longterm sick leave, led to a loss of trust in the Council by the complainant; for which she received an explanation, apology and £100 compensation for her time and trouble complaining.

In a second, a six month delay in making provision for a child's Special Educational Needs was settled by a payment of £6,128, which included compensation for the child's lost provision, and the stress and frustration suffered as a result.

A further complaint also involved delays in making a statement of Special Educational Needs. Meanwhile, the Council had failed to provide an appropriate education over a long period; had failed to maintain records or update care plans, had failed to work in partnership with other agencies, and did not provide regular visits by the child's Social Worker. The complaint was investigated through the statutory complaints procedure but there was a delay in issuing the report at Stage 2. When the complainant came to me, the Council promised to send a sincere written apology, and to pay compensation.

Other findings

Of the 19 other complaints determined this year, three were returned to you to be put through the Council's own complaints procedure. A further six were about matters which, in my view, lay outside my jurisdiction.

The remaining 10 complaints were not pursued because no evidence of maladministration was seen or because it was decided for other reasons not to pursue them, mainly because no significant injustice flowed from the fault alleged.

Your Council's complaints procedure and handling of complaints

Last year I remarked that I felt that, while robust and easily accessible, your Council's corporate complaints procedure might be rather cumbersome and time-consuming, particularly for less complex complaints. I understand that the Council seeks to resolve complaints at the first or second stage wherever possible. Nevertheless, there remains a risk that complainants may drop out of the complaints process without obtaining satisfaction, because they are suffering from "complaint exhaustion".

Having said this, the Council will no longer exist in its current form following local government reorganisation on 1 April 2009. I am aware that officers are working to put a new complaints procedure in place which is appropriate to the new unitary authority and the range of complaints it is likely to receive. I trust that the reorganisation of local government in Wiltshire will not disrupt the smooth handling of complaints. Please let me know if we can be of assistance to you here.

Liaison with the Local Government Ombudsman

Last year I had reason to write about a perception on the part of a number of complainants that the Council had seemed unwilling to accept any fault, or reach a suitable compromise, in some cases. Children's Services, and in particular Education, were the services singled out. I am glad to learn that the Council has taken formal steps to address this issue. I have yet to see the results of those improvements, but this will largely be because complaints about the events of the past two or three years are still working their way through the system.

I was happy to be able to address a group of Council Members and officers during the year, and I hope that this proved helpful to them.

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. This year we carried out a detailed evaluation of the training with councils that have been trained over the past three years. The results are very positive.

The range of courses is expanding in response to demand. In addition to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution) we now offer these courses specifically for social services staff and a course on reviewing complaints for social care review panel members. We can run open courses for groups of staff from different smaller authorities and also customise courses to meet your Council's specific requirements.

All courses are presented by an experienced investigator so participants benefit from their knowledge and expertise of complaint handling.

I have enclosed some information on the full range of courses available together with contact details for enquiries and any further bookings.

LGO developments

We launched the LGO Advice Team in April 2008, providing a first contact service for all enquirers and new complainants. Demand for the service has been high. Our team of advisers, trained to provide comprehensive information and advice, has dealt with many thousands of calls since the service started.

The team handles complaints submitted by telephone, email or text, as well as in writing. This new power to accept complaints other than in writing was one of the provisions of the Local Government and Public Involvement in Health Act 2007, which also came into force in April 2008. Our experience of implementing other provisions in the Act, such as complaints about service failure and apparent maladministration, is being kept under review and will be subject to further discussion. Any feedback from your Council would be welcome.

Last year we published two special reports providing advice and guidance on 'applications for prior approval of telecommunications masts' and 'citizen redress in local partnerships'. I would appreciate your feedback on these, particularly on any complaints protocols put in place as part of the overall governance arrangements for partnerships your Council has set up.

Conclusions and general observations

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. As a result of Secretary of State's decisions on the future structure of local government in Wiltshire this is the last Annual Letter that I shall be sending to Wiltshire County Council in its present form. I should like to take this opportunity of thanking all the members and officers who have dealt with my office for their courtesy and cooperation and wish you well for the future.

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June 2008

Enc: Statistical data
Note on interpretation of statistics
Leaflet on training courses (with posted copy only)

Complaints received by subject area	Adult care services	Children and family services	Education	Other	Planning & building control	Transport and highways	Total
01/04/2007 - 31/03/2008	4	2	9	4	0	5	24
2006 / 2007	8	6	12	2	1	4	33
2005 / 2006	2	2	9	0	0	12	25

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2007 - 31/03/2008	1	6	0	0	6	4	6	3	23	26
2006 / 2007	0	8	0	0	5	3	4	9	20	29
2005 / 2006	0	4	0	0	3	4	5	6	16	22

See attached notes for an explanation of the headings in this table.

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2007 - 31/03/2008	10	34.9
2006 / 2007	12	26.8
2005 / 2006	12	30.2

Average local authority response times 01/04/2007 to 31/03/2008

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	56.4	24.6	19.1
Unitary Authorities	41.3	50.0	8.7
Metropolitan Authorities	58.3	30.6	11.1
County Councils	47.1	38.2	14.7
London Boroughs	45.5	27.3	27.3
National Park Authorities	71.4	28.6	0.0