

**The Local Government Ombudsman's
Annual Review
Babergh District 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 Babergh District Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Babergh District 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

I received a total of 12 enquiries and complaints about your Council in 2009/10, down from the 16 received during the previous year. One of the complaints was premature (because the Council had not first been given an opportunity to deal with the complaint itself) and advice was given to two enquirers.

The remaining nine complaints were forwarded to my investigation team to consider. Of these, three involved planning applications, and the remainder were equally spread across housing repairs, access to information, land, planning enforcement and council tax.

Complaint outcomes

I made decisions on eight complaints during 2009/10. I concluded that two complaints were not within my jurisdiction to investigate. One concerned an allegation of fault in the handling of a request for information under the Freedom of Information Act. There is a specific right of appeal to the Information Commissioner in such cases, and I would normally expect this right to be used. The other was about action taken by the Council against alleged breaches of planning controls. Again there was a specific appeal right (to the Planning Inspectorate). In this case the appeal had been used, so I had no discretion to consider the matter.

In five cases, I found there was no or insufficient evidence of maladministration to warrant pursuing an investigation further. Four involved planning matters and the other was about liability for business rates. Sometimes, though the Council may be at fault, I use my discretion not to pursue an investigation because there is no significant injustice to the complainant. I decided not to pursue one investigation for this reason.

Liaison with the Local Government Ombudsman

Last year, I made formal enquiries on four complaints and the Council took an average of 25 days to respond. This is within my 28 day target for responses, and I am grateful. But one case took 33 days and the average time has increased over the last few years, so I would ask that the Council remains watchful.

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	Housing	Public Finance inc. Local Taxation	Planning and building control	Other	Total
Formal/informal premature complaints	1	0	0	0	1
Advice given	0	1	0	1	2
Forwarded to investigative team (resubmitted prematures)	0	0	1	1	2
Forwarded to investigative team (new)	1	1	4	1	7
Total	2	2	5	3	12

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	0	0	0	5	1	2	8

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	4	25.0
2008 / 2009	4	20.5
2007 / 2008	2	13.5

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

COMPLAINTS REGISTER

UPDATE ON COMPLAINTS RECEIVED DURING PERIOD APRIL 2008 TO MARCH 2009

(updated information in bold)

Date Received	Summary of Complaint	Outcome of Complaint
COMMUNITY DEVELOPMENT DIVISION (Tenant Services, Homelessness)		
7 May 2008	Officers failed to act promptly with regard to dispute with neighbour over removal of hedge without permission, keeping of chickens and generally ignoring conditions attached to tenancy agreement.	Hedge planted on land within curtilage of neighbour and keeping of chicken does not constitute a statutory nuisance. Subsequent complaint to the Ombudsman in October 2008, who declined to pursue – Ombudsman’s discretion. Further complaint to the Ombudsman in August 2009 – not pursued – Ombudsman’s discretion.
24 March 2009	Contents of garage removed without consent – seeking compensation.	Complaint justified. Unreserved apology given for the way matter was handled. Offer of compensation accepted.
NATURAL & BUILT ENVIRONMENT DIVISION (Planning Control)		
14 January 2009	Alleges significant failures in processing of application for development resulting in detrimental impact to adjacent listed building.	Protracted correspondence in which Council explains its procedures in this specific case.
28 January 2009	Allegations of improper handling of planning application.	Proper procedures followed at all stages when determining the application. Subsequent complaint to the Ombudsman – no or insufficient evidence of maladministration.
19 February 2009	Complainant’s property has been blighted by new development for which he seeks compensation.	The relationship between the new development and the complainant’s property was judged to be acceptable and is typical of that found in many new housing developments. Subsequent complaint to the Ombudsman – no or insufficient evidence of maladministration.

COMPLAINTS RECEIVED DURING THE PERIOD APRIL 2009 TO MARCH 2010

Date Received	Summary of Complaint	Outcome of Complaint
COMMUNITY DEVELOPMENT DIVISION (Tenant Services, Homelessness)		
24 April 2009	Disrepair of flat and much needed adaptations that cannot be done.	The Ombudsman recommended a local settlement proposal in the sum of £700. This has been paid and accepted.
8 June 2009	Affordable housing unit for rent via S106 Agreement – matter not handled correctly by officers in that request for grant funding was denied. Further allegation of collusion with housing association to submit a lower bid.	Officer decision was reasonable and there were no undue delays in arriving at a decision. Absolutely refute any suggestion of impropriety. Subsequent complaint to the Ombudsman – Informed not pursuing.
14 August 2009	Unhelpful attitude of housing staff in dealing with housing difficulties.	Couple are separating and as husband has disabilities, Council is working towards finding him suitable alternative accommodation.
CONTRACT & ASSET MANAGEMENT DIVISION (Housing Repairs, Car Parking)		
25 January 2010	Inadequate heating.	Most effective method of operation explained to maximise efficiency and reduce costs. System almost life-expired and planned replacement in next financial year.
4 February 2010	Condition of Council house and level of service received.	Meeting held with complainants to understand their needs and to clarify the Council's responsibility. Schedule of works for outstanding repairs agreed.
CORPORATE SERVICES DIVISION (Legal)		
23 June 2009	Conduct of Council staff.	Unreserved apologies given. Procedures corrected to avoid problems in the future.
23 February 2010	Inclusion on Council's Special Care Customer List.	Council has followed all proper procedures and any claim for damages as threatened would be defended.
CUSTOMER SERVICES DIVISION (Council Tax, Revenues and Benefits)		
8 April 2009	Conduct of Fraud Investigation Team.	Unable to support the complaint made following a detailed review of the record of events.
30 July 2009	Disputed Non-Domestic Rate liability.	Complaint direct to Ombudsman – Found no evidence of fault by the Council.
24 November 2009	Unfair suspension of Housing Benefit.	Explanation given for why doubt had arisen about eligibility to receive Housing Benefit.

Date Received	Summary of Complaint	Outcome of Complaint
7 December 2009	Council Tax Arrears.	An independent review revealed that conflicting information had been received. Empty Council Tax charge waived and refund paid.
29 January 2010	The procedure followed in collecting Non-Domestic Rates.	Apology given for shortfall in service. Charges raised by Bailiffs refunded in full and summons costs waived. Processes reviewed to prevent similar situation in future.
NATURAL & BUILT ENVIRONMENT DIVISION (Waste Collection, Enforcement, Private Housing)		
17 April 2009	Poor refuse collection service.	Apology offered and assurances of a better service in future.
15 September 2009	Inappropriate handling by Council of Emergency Prohibition Order.	Claim is pending against the Council's insurers (who have accepted liability), so not appropriate to comment on specific points in the complaint.
NATURAL & BUILT ENVIRONMENT DIVISION (Planning Control)		
1 May 2009	Council's decision to refuse permission for development was incorrectly handled and evidence of systemic failures in planning arrangements.	Complainants have option of appealing against refusal of permission or submitting a fresh application. Comprehensive response detailing how correct procedures were followed.
19 June 2009	Grant of planning permission for extension was ill conceived and has resulted in blight and loss of property values.	Decision made after consideration of all representations received and following correct procedures. Ombudsman decision – No or insufficient evidence of maladministration.
2 July 2009	Conduct of officer during site visit.	Discussion with the officer, who regrets his actions.
6 August 2009	Inappropriate handling of application by officers, including at the site inspection, problems accessing the website and lack of response to emails.	Acknowledge that Council could have done better in ensuring proper procedures were followed and apology offered. Learning points noted.
27 August 2009	No consultation received about application for affordable homes, as agreed at meeting with owner of adjacent site. Insufficient consideration given to representations from local airfield.	Apology for mistake in not advising owner of site. Application originally considered in August 2009, but held in abeyance until February 2010 to allow for further comment from airfield owner. Planning application was approved. Subsequent complaint received implying that the process was defective. Explanation sent stating that complaints system cannot review the merits or otherwise of a particular planning decision.

Date Received	Summary of Complaint	Outcome of Complaint
August/ September 2009	Nayland Airfield – Conditions on planning application.	Explanation given stating that the investigation conducted by the Council, the procedures followed by the Council, and the discretionary powers exercised by the Council had been scrutinised and challenged through the proper and established legal processes.
19 October 2009	Not informed of extension to adjoining property which now overlooks him.	Explanation given that our complaints system does not exist to review the merits or otherwise of planning decisions.
26 October 2009	Enforcement Notice – Financial impact on purchase of property.	Explanation for timescales involved in Council deciding to rate enforcement action. Ombudsman decision – Outside jurisdiction.
21 January 2010	Application for extension to neighbour's property should not be approved. Their representations not taken into account.	Explanation given that our complaints system does not exist to review the merits or otherwise of planning decisions.
22 January 2010	Complaint from 2005 – Application to build disabled persons accommodation turned down.	Council refutes suggestion that it has not complied with its legal duties. However, realises that five years since application was considered, therefore Chief Planning Control Officer asked to contact complainant to discuss whether any form of development could be acceptable.
25 January 2010	Time taken to complete S106 Agreement.	Explanation given that our complaints system does not exist to review the merits or otherwise of planning decisions.
10 March 2010	Complaint against Planning Dept and Planning process at BDC in general.	Apologies for inconvenience caused and explanation given that the determination of any application can sometimes become protracted for a variety of reasons.
18 March 2010	Complaint against procedures when an objection was submitted in relation to planning application.	Explanation given that our complaints system does not exist to review the merits or otherwise of planning decisions.
NATURAL & BUILT ENVIRONMENT DIVISION (Planning Policy)		
None		

Division	Number of Complaints								
	2001/ 2002	2002/ 2003	2003/ 2004	2004/ 2005	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010
Community Development (Tenant Services, Homelessness, Leisure)	7	9	9	6	3	8	3	7	3
Contract & Asset Management (Housing Repairs, Car Parking)	2	3	0	5	3	4	5	11	2
Corporate Services (Legal and Administrative Services)	0	0	0	1	1	2	1	1	2
Customer Services (Council Tax, Revenues & Benefits)	7	1	3	11	5	3	2	3	5
Leisure & Community Services (now included under Community Services)	1	0	2	0	1	0	0	0	0
Natural & Built Environment (Waste Collection, Enforcement, Private Housing)	4	3	6	7	3	7	1	1	2
Natural & Built Environment (Planning Control)	16	15	17	22	18	14	15	14	13
Natural & Built Environment (Planning Policy)	3	1	1	0	2	0	1	0	0
Miscellaneous	0	0	0	0	1	0	0	0	0
Total Number of Complaints	40	32	38	52	37	38	28	37	27

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