

BABERGH DISTRICT COUNCIL

FROM: Director of Corporate Services

REPORT NUMBER: **J71**

TO: OVERVIEW AND SCRUTINY
(STEWARDSHIP) COMMITTEE

DATE OF MEETING: 11 August 2009

ANNUAL MONITORING OF FORMAL COMPLAINTS 2008/09

1. PURPOSE OF REPORT

- 1.1 This report provides Councillor's with information on all formal complaints made to the Council in 2008/09, including those referred to the Local Government Ombudsman.

2. RECOMMENDATION

- 2.1 That the report be noted.
The Committee is able to resolve this matter.

3. FINANCIAL IMPLICATIONS

- 3.1 No direct financial implications.

4. RISK MANAGEMENT

- 4.1 This report is most closely linked with the Council's Significant Business Risk No.7 financial, performance and risk management.

5. KEY INFORMATION

Enquiries and complaints to the Ombudsman

- 5.1 The Council has received its annual letter from the Local Government Ombudsman. This is shown in Appendix 1. The letter includes information on the number of enquiries and complaints received by the Ombudsman about the Council and the subsequent decisions taken. Appendix 1 also provides supporting information on the interpretation and analysis of complaints report.
- 5.2 The Ombudsman received sixteen enquiries and complaints about the Council during 2008/09. The Local Government Ombudsman has changed operational procedures and practices in relation to complaint handing from April 1 2008. For this reason it is not possible to provide appropriate comparison with previous years statistical data.
- 5.3 Of the sixteen complaints and enquiries received in 2008/09, eight were passed to the investigation team; these consisted of four concerning planning matters, three housing and one local taxation.

5.4 Ombudsman decisions

5.5 During 2008/9 the investigative team for the Ombudsman made decisions on eight cases. No formal maladministration reports were issued against the Council. One case was considered to be outside the Ombudsman's jurisdiction. There were three cases where the Ombudsman exercised a general discretion not to continue the investigation. The Ombudsman also discontinued two cases where there was no evidence of maladministration.

5.6 The two remaining complaints resulted in a local settlement, which the Ombudsman considered a satisfactory response to the complaint. These involved a delay in repairing a defective heating system and a delay in making a decision on outline planning permission.

5.7 Council response times

5.8 The Ombudsman expects councils to respond to his enquiries within 28 days. On average Babergh District Council responded in 20.5 days, which is within the target.

Other complaints received by the Council in 2008/9

5.9 Appendix 2 shows a summary of formal complaints received by the council in 2008/9. The Council received 37 formal complaints in 08/09; this is comparable with the trend over a number of years although it does show an increase on the figure for 2007/08. A breakdown of complaints per division is shown at the end of Appendix 2, as in previous years a large number are related to aspects of planning.

6. APPENDICES

Appendix 1 – Local Government Ombudsman, Annual Letter 2008/9

Appendix 2 – Summary of complaints received by the Council 2008/9

7. BACKGROUND PAPERS REFERRED TO

7.1 None

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**The Local Government Ombudsman's
Annual Review
Babergh District 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 Babergh District Council 2008/09

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 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

We received a total of 16 enquiries and complaints about your Council in 2008/09.

Of the eight complaints passed to the investigation team, four concerned planning matters, three concerned housing and the other involved local taxation.

Complaint outcomes

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. This may include such things as reconsideration of a decision, repairs carried out, policies reviewed, benefit paid, an apology or other action. In addition I may ask the Council to pay compensation.

This year I agreed two local settlements with your Council and asked you to pay compensation of £100 in total.

The local settlements involved one housing disrepair and one planning case. In the disrepair case, the complainant and other residents in a sheltered accommodation scheme were faced with a

defective heating system in which they were unable to control the heating; it was either too hot or too cold. The complainant and others had pursued the matter with the Council to no avail. After my investigation, the Council agreed to undertake repairs to the heating system.

In the planning case, there was a long delay before the Council made a decision on an outline planning application. In 2003 the Council had said it was minded to approve the application, but the formal decision was not made until 2007. In coming to this decision the Council did not take into account changes in the law or its policy and procedures in relation to wildlife issues which had occurred in the meantime. While I could not conclude a different decision would otherwise have been made, the complainants were left with some uncertainty over this issue and were put to time and trouble in pursuing matters. The Council agreed to a modest payment of compensation.

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. At other times the substantive matter of the complaint may be outside my jurisdiction. This year I closed three cases using my discretion and one other case where I could not investigate the complaint because it was outside my jurisdiction. There were two cases where I found no fault with the Council's actions.

Liaison with the Local Government Ombudsman

We ask Councils to respond to our enquiries within 28 days. The average response time for the five enquiries made to your Council was 20.5 days which is within my target. I thank you for your help and co-operation in this matter.

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.

Tony Redmond
Local Government Ombudsman
10th floor
Millbank Tower
Millbank
London
SW1P 4QP

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.

Tony Redmond
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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	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Other	Total
Formal/informal premature complaints	1	1	0	1	0	3
Advice given	1	1	0	2	1	5
Forwarded to investigative team (resubmitted prematures)	1	0	0	1	0	2
Forwarded to investigative team (new)	2	0	1	3	0	6
Total	5	2	1	7	1	16

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	2	0	0	2	3	1	8

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

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	4	20.5
2007 / 2008	2	13.5
2006 / 2007	6	25.3

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 park authorities	100	0	0

COMPLAINTS REGISTER

UPDATE ON COMPLAINTS RECEIVED DURING PERIOD APRIL 2007 TO MARCH 2008

(updated information in bold)

Date Received	Summary of Complaint	Outcome of Complaint
NATURAL & BUILT ENVIRONMENT DIVISION (Planning Control)		
18 February 2008	Incorrect planning advice given with regard to erection of fence.	Unreserved apology for error. Request submission of application to regularise the situation. Subsequent complaint to the Ombudsman, who declined to pursue – Ombudsman’s discretion. [Procedures subsequently revised to avoid similar errors in the provision of advice to householders.]

COMPLAINTS RECEIVED DURING THE PERIOD APRIL 2008 TO MARCH 2009

Date Received	Summary of Complaint	Outcome of Complaint
COMMUNITY DEVELOPMENT DIVISION (Tenant Services, Homelessness)		
23 April 2008	Complaint direct to the Ombudsman - request to be rehoused repeatedly ignored by the Council. (Previous complaint to Ombudsman in August 2007 – Ombudsman declined to pursue – outside jurisdiction).	Ombudsman made extensive enquiries of BDC officers before deciding complaint would not be pursued – Ombudsman’s discretion.
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, who declined to pursue – Ombudsman’s discretion.
1 June 2008	Request for priority move was dealt with unsympathetically by member of Housing Team.	Home visit to complainant and apology if any unintended offence caused, but confirmation that correct information was given.

Date Received	Summary of Complaint	Outcome of Complaint
17 July 2008	Mother is resident in Council sheltered accommodation and suffered fall. Scheme Manager failed to make routine visit.	Acknowledge that Scheme Manager failed to check, as required. Unreserved apology offered and investigation held to establish if a formal disciplinary hearing is appropriate. [Scheme Manager subsequently left the Council's employment]
1 December 2008	Council not responding appropriately to complaint about nuisance neighbours.	Legal action against neighbours not appropriate in this case. Mediation offered but rejected. Monitoring equipment installed and no statutory nuisance identified.
26 January 2009	Allegations against neighbour and unfairly denied an exchange into a larger bungalow.	Allegations against neighbour being investigated. Exchange was correctly refused due to unsuitability of other party, but complainants encouraged to consider exchange in future.
24 March 2009	Contents of garage removed without consent – seeking compensation.	Written notice was given terminating tenancy of garage, allowing time to clear the garage, so Council have acted properly. Complaint ongoing.
CONTRACT & ASSET MANAGEMENT DIVISION (Housing Repairs, Car Parking)		
23 May 2008	Complaint referred by Ombudsman for local settlement - heating system in sheltered housing is unsatisfactory.	Visit by officer to explain how heating system may be used more effectively pending planned improvement works due to be undertaken.
27 June 2008	Repairs to house unsatisfactory and calls to BDC unanswered.	Apology for unsatisfactory work, which has now been remedied.
2 July 2008	Repairs to kitchen floor taking too long. Compensation sought for inconvenience.	Apology for unsatisfactory work and compensation of £75 paid by contractor.
29 September 2008	Queries on Statement of Charges for 2008/09.	Following an extensive exchange of correspondence, charges agreed.
22 October 2008	Excess Charge Notice for car parking in Sudbury.	Explanation of new system and requirement to obtain ticket, although parking remains free.
28 October 2008	Excess Charge Notice for car parking in Sudbury.	Due to inadequacies in our communication with complainant, refund given.
6 November 2008	Excess Charge Notice for car parking in Sudbury.	In view of comments made by our Parking Warden, ECN withdrawn.

Date Received	Summary of Complaint	Outcome of Complaint
1 December 2008	Complaint referred by Ombudsman for local settlement – damp in bathroom.	Apology for length of time to undertake necessary repairs. Grant awarded to help with cost of decoration plus promise to re-inspect in six months to ensure condensation problem has been resolved.
3 December 2008	Dispute over clearance of property in Hadleigh.	Due to delay in raising invoice, agreed to waive payment in order to achieve closure on a relatively small debt.
23 March 2009	Excess Charge Notice for car parking in Sudbury.	Appeal process properly conducted, no extenuating circumstances applicable.
25 March 2009	Water leaking through bedroom ceiling – unsatisfactory response to request for repairs.	Apology that original letter of complaint mislaid. Accept leak due to fitting error made by our contractor. Compensation of £30 paid for inconvenience caused.
CORPORATE SERVICES DIVISION (Legal)		
25 February 2009	Independent review of Code of Conduct complaint against the Standards Committee of Mid Suffolk District Council was flawed.	Following thorough review, satisfied that Code of Conduct complaint was correctly dealt with.
CUSTOMER SERVICES DIVISION (Council Tax, Revenues and Benefits)		
29 April 2008	Alleges a shortfall in housing benefit due in respect of property in Sudbury.	Full details of payments sent, which prove that complainant has been fully reimbursed for any rent payments due.
7 August 2008	Complaint direct to Ombudsman – requests compensation due to overpayment of Council Tax.	Ombudsman's view was that council tax legislation makes no provision for payments on banding reductions. Therefore complaint not pursued – no or insufficient evidence of maladministration.
4 February 2009	Mishandling of confidential documents.	Unreserved apology offered. Staff reminded of correct procedures.
NATURAL & BUILT ENVIRONMENT DIVISION (Waste Collection, Enforcement, Private Housing)		
1 April 2008	Allegation that neighbour operating car hire business unlawfully and the Council failed to take up the matter.	Extent of business activities would not require planning permission – Council has dealt with this matter in even-handed manner.
NATURAL & BUILT ENVIRONMENT DIVISION (Planning Control)		
9 April 2008	Erection of grain store – mishandling of applications.	Applications not straightforward, but were determined within requisite time period once correct fee paid.

Date Received	Summary of Complaint	Outcome of Complaint
		Assertion that applicant free to proceed with development not substantiated.
20 May 2008	Administration procedures caused distress due to disclosure of personal Information.	Apology for delay in amending website (although officers felt that personal data had been adequately obscured).
28 May 2008	Failure to reply to correspondence concerning three sites adjacent his property. Subsequently referred to Ombudsman who referred back to Council for local settlement – premature complaint.	Apology for delay in responding to original enquiry. The approach Babergh is taking, in planning terms, is reasonable and proportionate. A further complaint to the Ombudsman regarding failure to take enforcement action in respect of two issues – Ombudsman declined to pursue – outside jurisdiction.
26 August 2008	Complainant alleges disgraceful and unprofessional conduct by planning officers when dealing with planning application.	Advised that informal pre-application discussions cannot be binding. Minor error in procedures in complicated case are acknowledged, for which apology offered, but applicants have right to lodge appeal against refusal.
6 November 2008	Extension to next door dwelling causing detrimental effect on complainant's amenities.	Concerns about the impact of the extension were taken fully into account when the application was determined and insertion of windows not considered to be detrimental to complainant's property. In addition, no breach under the Human Rights Act, as alleged. Subsequent complaint to Ombudsman, who declined to pursue – no evidence of maladministration.
24 November 2008	Complaint to the Ombudsman – the Council failed to properly consider wildlife issues relating to Thorington Hall site and new policies which have arisen since the application was determined were not considered when they should have been. As a result, the habitat for a number of species will be adversely affected.	Acknowledge that new government policy on nature reserves was not taken into account when the outline permission was granted, but an ecological assessment will be required as part of any reserved matters submission or any new application. Ombudsman decision that Council at fault for not taking these policies into account at that time and proposed payment of £100 to complainants for their time and trouble in pursuing complaint – recorded as local settlement.

Date Received	Summary of Complaint	Outcome of Complaint
26 November 2008	Inadequate level of service in relation to events leading up to formal registration of planning application.	Unreserved apology for delays in administration due, in part, to “teething troubles” following introduction of new national standard application forms.
2 January 2009	Incorrect advice given regarding need to obtain planning permission – compensation sought for abortive costs involved and time wasted.	Unreserved apology for giving incorrect advice and £20 send as a gesture of goodwill.
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. Complaint ongoing.
23 January 2009	Planning approval for new development should be rescinded as it will have a detrimental impact on surrounding area. Views of Town Council and planning consultant ignored.	All representations were taken into account and correct procedures followed when determining the application.
28 January 2009	Allegations of improper handling of planning application.	Proper procedures followed at all stages when determining the application.
3 February 2009	Retrospective application for retention of gates and gatepost wrongly approved.	All points of dispute carefully considered, but correct procedures followed at all stages and no 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.
20 March 2009	Informal enquiry not dealt with in a professional or timely manner.	Apologise that enquiry not dealt with more speedily, but it was a complicated matter which required extensive research and internal officer discussion. Advice now given as to appropriate way forward.
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
Community Services (Tenant Services, Homelessness, Leisure)	7	9	9	6	3	8	3	7
Contract & Asset Management (Housing Repairs, Car Parking)	2	3	0	5	3	4	5	11
Corporate Services (Legal and Administrative Services)	0	0	0	1	1	2	1	1
Customer Services (Council Tax, Revenues & Benefits)	7	1	3	11	5	3	2	3
Leisure & Community Services (now included under Community Services)	1	0	2	0	1	0	0	0
Natural & Built Environment (Waste Collection, Enforcement, Private Housing)	4	3	6	7	3	7	1	1
Natural & Built Environment (Planning Control)	16	15	17	22	18	14	15	14
Natural & Built Environment (Planning Policy)	3	1	1	0	2	0	1	0
Miscellaneous	0	0	0	0	1	0	0	0
Total Number of Complaints	40	32	38	52	37	38	28	37

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