

Local Government  
**OMBUDSMAN**

21 June 2010

Mr Bala Mahendran  
Chief Executive  
Basildon District Council  
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Dear Mr Mahendran

**Annual Review 2009 / 2010**

I am writing to give you a summary of the complaints about your authority that my office has dealt with over the past year, set out in the annual review attached. I hope you find the review a useful addition to other information you have on how people experience or perceive your services.

The review is split into two sections. The first concerns complaints about your authority and the second section provides a general update on LGO developments. I would welcome any comments you may have on the form and content of the review.

We will publish all the annual reviews on our website ([www.lgo.org.uk](http://www.lgo.org.uk)). We will wait for three weeks after this letter before doing so, to give you an opportunity to consider the review first. If any material factual inaccuracy is found we will reissue it. We will issue a press release about the publication of the annual reviews on our website. We will also publish on our website a summary of statistics relating to the complaints we have received and dealt with against all authorities.

I would again be happy to consider requests for me or a senior colleague to visit the authority to present and discuss the letter with councillors or staff. We will do our best to meet the requests within the limits of the resources available to us.

I am also arranging for a copy of this letter and the review to be sent to you electronically so that you can distribute it easily internally and put the annual review on your website. You do not need to include this covering letter on your website.

Yours sincerely



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

## Introduction

This annual review provides a summary of the complaints we have dealt with about Basildon 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.

In my annual review for 2008/09 I expressed my great concern about the Council's refusal to fully implement my recommendations for redress in the report on three complaints which I had published during that year. During 2009/10 the complainants issued Judicial Review proceedings in relation to your Council's failure to comply with my recommendations. In December 2009 the Judge granted permission for the application and a hearing date is awaited. As an Interested Party to those proceedings, I have made a submission to the High Court. so I make no further comment on the matter at this time.

## Enquiries and complaints received

Our advice team received 80 complaints and enquires during 2009/10, which is slightly fewer than last year. Of these, we sent 21 to the Council to be dealt with under your complaints procedure and in 12 cases we provided advice to the enquirer.

The advice team forwarded 47 complaints to the investigation team; this is 15 more than last year. Of these, eight were complaints which had previously been referred to the Council but the complainant remained unhappy with the outcome.

As was the case last year, the service area which attracted the largest number of complaints was housing. Of the 19 housing complaints forwarded for investigation, nine were about disrepair, six concerned housing allocations and the others were about homelessness and sales/leaseholds.

The 17 complaints in the 'other' category which were forwarded to the investigation team included 10 complaints about access to information which were related to the issues raised in the report I published last year and to which I have referred above. Within the 'other' category there were also three complaints about cemeteries.

The investigation team also received complaints about a range of other service areas.

## Complaint outcomes

Over the year we decided 39 complaints about your Council. I did not issue any reports this year but 11 complaints were decided as local settlements. I made a finding of no or insufficient evidence of maladministration in 18 of the complaints whilst I was unable to investigate six others because they were outside my jurisdiction. There were four complaints where I exercised discretion not to

pursue an investigation; one reason why I may decide not to investigate a complaint is where there is insufficient evidence that an injustice has been caused to the complainant.

## **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 and which were within our jurisdiction, 11 (33.3%) were local settlements.

## ***Housing***

I made 19 decisions this year on housing complaints and just under half were local settlements; all but one of the settlements concerned housing disrepair. In eight complaints I found there was no or insufficient evidence of fault.

### *Housing repairs*

There were eight local settlements of complaints about disrepair. In last year's annual review I expressed concern about the number of complaints I had upheld about disrepair. The number of local settlements this year indicates that this is still an area of concern and it is disappointing that there do not seem to be any indications of an improvement in this service area.

In one complaint your Council agreed to pay compensation to a tenant after I found there had been a delay of about eight months in carrying out repairs which were needed to eliminate draughts; there was also a delay in providing loft insulation. This complaint had been resubmitted to us following our earlier referral to the Council for it to be dealt with under its complaints procedure. This was the only 'resubmitted' complaint which resulted in a local settlement.

Delay was also the primary factor in four other local settlements. In one complaint there had been delays in repairing a security door and in carrying out works to the roof; it seems repeated work orders were raised but the repairs were not completed. You agreed to pay compensation of £250 and ensure the outstanding work was completed. However, there was a delay in your Council carrying out the inspections that I asked you to do and the tenant was forced to submit another complaint to my office. Because he was put to some further time and trouble I asked you to pay an additional £75. However, it is also true that when the inspections were carried out there was no evidence to suggest that further work was required.

In another complaint there was a delay in replacing some fencing in a satisfactory manner and, in addition to the delay, there seems to have been a lack of full and accurate record keeping. The complainant was offered £75 for the time and trouble he had been caused and your Council agreed to do the outstanding repairs.

There was a delay of about three months in ensuring that roof repairs were completed in another housing complaint; throughout this time water continued to leak into the property causing some considerable distress to the complainant. The Council paid compensation of £500 and agreed to ensure completion of the works. Distress was a factor in a different complaint about a gas leak caused by a wrongly fitted gas valve. In this case the Council paid compensation of £140.

And, in another complaint, the tenant had been asked to remove tiles in his kitchen and bathroom in preparation for the walls being retiled and re-plastered. But despite being told the work would be done within about 15 days, some eight weeks had passed since the removal of the tiles and the repairs by the Council had not been done. Shortly after lodging the complaint to us the work was completed.

I also considered a complaint about the adequacy of a communal heating and hot water system and whether the tenant was being over-charged due to a faulty meter. Deadlock had been reached because the Council thought there were no problems with the heating system whilst a report commissioned by the complainant suggested there were defects and recommended further tests. To settle the complaint your Council agreed to obtain an independent heating report and to have the meter checked. It was also agreed that if faults were found with the heating, or the meter, then the Council would take action to remedy those faults and to consider if there were grounds to pay compensation.

### *Housing sales/leaseholds*

Delay also featured in a complaint from a leaseholder where the Council was the freeholder. The complainant's flat was within a block which, for a number of years, had been subject to subsidence problems. It had been suggested that the corrective work would start in September 2008 but work did not actually start until September 2009. Your Council initially offered the complainant £500 compensation but I asked you to increase it to £1,000 due to the long period of uncertainty faced by the complainant. You readily agreed to increase the compensation.

### ***Planning and building control***

Compensation of £200 was paid after I found that your Council had failed to notify someone that a third storey was being added to a property at the rear of his home. The planning officer had also failed to consider the issue of overlooking and had noted that it was up to the applicant to determine the number and position of roof lights. Your Council agreed to pay compensation because the complainant had been denied an opportunity to object to the application; you also agreed to correct the computer problem which had caused the failure to notify near neighbours of the application. I was pleased that you voluntarily agreed to pay compensation to another neighbour who was also not notified of the planning application.

### ***Other***

I considered a complaint about contracts and business matters which I decided as a local settlement. The complainant had hired a theatre from the Council and there was then a dispute about whether he had authorised theatre staff to make a large number of refunds. The invoice which he was sent was unclear and contained handwritten notes which were also unclear. I was unable to determine if the refunds had been unauthorised but I was concerned about the lack of clarity in the invoices (for the hire of the theatre) from the Council and about the delay in responding to his complaints. You agreed to reduce the invoice by £75 and you have now introduced a policy to ensure there are records to show whether refunds have been unauthorised.

We received a number of complaints about changes that had been introduced in Pitsea cemetery. I did not find there had been any fault in relation to these changes but I did tell you that several complainants had expressed concern that the grounds were not being properly maintained.

### **Liaison with the Local Government Ombudsman**

In terms of your response times, over the year it has taken your Council an average of 34.3 days to respond to our written enquires on complaints. This is disappointing as it is in excess of the 28 days in which we ask Councils to reply and nearly 10 days more than last year's average. I look to the Council to take action to ensure that this is addressed during the current year.

## **Training in complaint handling**

In previous years we have provided training in Good/Effective Complaint Handling to staff from your staff from your authority. We have extended the range of courses we provide and I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

## **Conclusions**

The level of complaint about disrepair continues to be an area of concern and I would be interested to learn whether the Council is satisfied with the performance of the repairs service. I hope that is something that we can talk about during the coming year.

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/](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**

<b>Enquiries and complaints received</b>	<b>Adult care services</b>	<b>Children and family services</b>	<b>Housing</b>	<b>Benefits</b>	<b>Public Finance inc. Local Taxation</b>	<b>Planning and building control</b>	<b>Transport and highways</b>	<b>Other</b>	<b>Total</b>
Formal/informal premature complaints	1	1	9	0	2	1	1	8	23
Advice given	0	0	6	1	2	0	0	3	12
Forwarded to investigative team (resubmitted prematures)	0	0	6	0	1	0	0	1	8
Forwarded to investigative team (new)	0	1	13	2	2	5	1	15	39
<b>Total</b>	<b>1</b>	<b>2</b>	<b>34</b>	<b>3</b>	<b>7</b>	<b>6</b>	<b>2</b>	<b>27</b>	<b>82</b>

**Investigative Team**

<b>Decisions</b>	<b>MI reps</b>	<b>LS</b>	<b>M reps</b>	<b>NM reps</b>	<b>No mal</b>	<b>Omb disc</b>	<b>Outside jurisdiction</b>	<b>Total</b>
<b>2009 / 2010</b>	<b>0</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>18</b>	<b>4</b>	<b>6</b>	<b>39</b>

**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	35	34.3
2008 / 2009	29	25.1
2007 / 2008	33	26.9

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