

**BABERGH DISTRICT COUNCIL**

**FROM: Director of Corporate Services**

**REPORT NUMBER: H84**

**TO: OVERVIEW AND SCRUTINY  
(STEWARDSHIP) COMMITTEE**

**DATE OF MEETING: 12 August 2008**

**ANNUAL MONITORING OF FORMAL COMPLAINTS**

**1. PURPOSE OF REPORT**

1.1 This report provides Members with information on all formal complaints made to the Council in 07/08, including those referred to the Ombudsman.

**2. RECOMMENDATIONS**

- 2.1 That the report be noted.
- 2.2 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**

**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 complaints received by the Ombudsman about the Council, decisions made broken down by decision reason, and the time it takes for the Council to respond to initial enquiries made by the Ombudsman. Appendix 1 also includes a glossary of the terminology used by the Ombudsman in compiling the statistics used in the annual letter.

5.2 The Ombudsman received ten complaints against the Council during 2007/08. The numbers of complaints received by the Ombudsman per year are shown below:

	2007/8	2006/7	2005/6	2004/5	2003/4	2002/3
Number of complaints	10	13	10	21	12	25

5.3 Of the complaints received by the Ombudsman in 07/08 four were about planning applications, two about housing allocations with one each about planning advice, housing repairs, waste management and highway management. The Ombudsman reports that it is common for district councils to receive more complaints about planning than other services.

## **Ombudsman decisions**

- 5.4 During 2007/8 the Ombudsman made decisions on eleven cases, some of these would have referred to complaints made in 2006/7. No formal maladministration reports were issued against the Council. Two cases were considered to be outside the Ombudsman's jurisdiction and four held to be premature, that is the Council had not had a proper chance to deal with them. The Ombudsman also decided not to proceed with further investigation in another two cases.
- 5.5 Of the three remaining complaints, two resulted in a local settlement which the Ombudsman considered a satisfactory response to the complaint. These involved delays in carrying out work on a council property and failure to inform an objector to a planning application of the date of the relevant Committee at which the application was to be heard. The final complaint, which concerned a planning application, resulted in a finding of no maladministration.

## **Council response times**

- 5.6 The Ombudsman expects councils to respond to his enquiries within 28 days. On average this council responded in 13.5 days, this is a significant improvement on previous years and is less than half the time we took to respond in 2005/06.

## **Other complaints received by the Council in 2007/8**

- 5.7 Appendix 2 shows a summary of formal complaints received by the council in 2007/8. The Council received 28 formal complaints in 07/08, ten less than 06/07 and the lowest number for some years. All have been resolved. A breakdown of complaints per division is shown at the end of Appendix 2, as in previous years the majority related to aspects of planning.
- 5.8 This report refers specifically to those formal complaints received through the Council's complaints system or referred to the Ombudsman. Members will be aware that the Council is currently looking to improve its performance in respect of informal complaints and customer satisfaction and have recently approved an action plan designed to achieve improvement at this earlier stage of interaction. (Report H57- Customer Service - opportunities for improvement).

## **6. APPENDICES**

Appendix 1 – Local Government Ombudsman, Annual Letter 2007/8

Appendix 2 – Summary of complaints received by the Council 2007/8

## **7. BACKGROUND PAPERS REFERRED TO:**

- 7.1 None

**CONTACT: Janice Rees**

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**The Local Government Ombudsman's  
Annual Letter  
Babergh District 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 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 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***

In 2007/08 I received ten complaints against your Council, similar to the number received in 2006/07.

### ***Character***

As is common for district councils, and as before for your Council, most complaints were about planning. I received four complaints about planning applications and one about planning advice. I also received two complaints about housing allocations and complaints about housing repairs, waste management and highway management.

## **Decisions on complaints**

During 2007/08 I made decisions on 11 cases.

## ***Reports and local settlements***

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 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). None of the complaints we investigated this year justified the issue of a report.

I reached a local settlement in two cases. The first involved some delay in fitting a new kitchen for a Council tenant, and work, identified before the tenant took over the property, which was not carried out or was done by the tenant in default. The Council agreed to pay a total of £285 for plasterwork which the tenant had done, and a decoration allowance for three rooms. The total settlement was £465. The Council also agreed to carry out other works needed.

The other case concerned a planning application which went to the Planning Committee. The complainants had objected to the application and wanted to be informed of the committee date, but they were not. There was no evidence to suggest the Committee would have reached a different decision, but I considered the Council should have responded to the request. The Council agreed to make a payment of £50 to recognise the uncertainty the complainants suffered and their time and trouble in pursuing the matter. The Council also agreed to review its procedures on providing information to those involved in the planning process. I should be grateful if you would send me details of the outcome.

/...

### **Other findings**

In one case concerning a planning application I did not find any evidence that the Council was at fault. Two complaints concerned matters outside my jurisdiction. In two other cases I used my discretion not to investigate further. Finally, four cases were referred back to the Council as I did not consider you had an adequate opportunity to consider a response before I became involved.

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

I ask councils to reply to my enquiries within 28 calendar days. Your Council's average response time was 13.5 days. My officers have noted your Council's willingness to provide detailed responses to our enquiries.

### **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, 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, which also came into force in April. 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'. Again, 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.

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

**June 2008**

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

<b>Complaints received by subject area</b>	<b>Housing</b>	<b>Other</b>	<b>Planning &amp; building control</b>	<b>Public finance</b>	<b>Transport and highways</b>	<b>Total</b>
<b>01/04/2007 - 31/03/2008</b>	3	1	5	0	1	<b>10</b>
<b>2006 / 2007</b>	1	3	6	2	1	<b>13</b>
<b>2005 / 2006</b>	3	2	5	0	0	<b>10</b>

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

<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>Premature complaints</b>	<b>Total excl premature</b>	<b>Total</b>
<b>01/04/2007 - 31/03/2008</b>	0	2	0	0	1	2	2	4	7	<b>11</b>
<b>2006 / 2007</b>	0	1	0	0	6	2	3	5	12	<b>17</b>
<b>2005 / 2006</b>	0	1	0	0	5	3	1	1	10	<b>11</b>

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

<b>Response times</b>	<b>FIRST ENQUIRIES</b>	
	<b>No. of First Enquiries</b>	<b>Avg no. of days to respond</b>
<b>01/04/2007 - 31/03/2008</b>	2	13.5
<b>2006 / 2007</b>	6	25.3
<b>2005 / 2006</b>	3	27.7

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

<b>Types of authority</b>	<b>&lt;= 28 days %</b>	<b>29 - 35 days %</b>	<b>&gt; = 36 days %</b>
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

# Notes to assist interpretation of the LGO's local authority statistics 2007/08

## 1. Complaints received

This information shows the number of complaints received by the LGO, broken down by service area and in total within the periods given. These figures include complaints that are made prematurely to the LGO (see below for more explanation) and that we send to the council to consider first. The figures may include some complaints that we have received but where we have not yet contacted the council.

## 2. Decisions

This information records the number of decisions made by the LGO, broken down by outcome, within the periods given. **This number will not be the same as the number of complaints received**, because some complaints are made in one year and decided in the next. Below we set out a key explaining the outcome categories for 2007/08 complaints.

**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 the authority has agreed to take some action which is considered 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.

**Premature complaints:** decisions that the complaint is premature. 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 to the council as a 'premature complaint' to see if the council can itself resolve the matter.

**Total excl premature:** all decisions excluding those where we referred the complaint back to the council as 'premature'.

### **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.

### **4. Average local authority response times 2007/08**

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

**COMPLAINTS REGISTER**

**UPDATE ON COMPLAINTS RECEIVED DURING PERIOD APRIL 2006 TO MARCH 2007**

**(updated information in bold)**

<b>Date Received</b>	<b>Summary of Complaint</b>	<b>Outcome of Complaint</b>
3 July 2006	Lack of progress on repairs to their Council house.	Full explanation given as to current position. <b>Subsequent complaint to Ombudsman, who recorded as local settlement, following agreement by Council to an ex gratia payment for work carried out by the tenants.</b>

**COMPLAINTS RECEIVED DURING THE PERIOD APRIL 2007 TO MARCH 2008**

<b>Date Received</b>	<b>Summary of Complaint</b>	<b>Outcome of Complaint</b>
<b>COMMUNITY DEVELOPMENT DIVISION (Tenant Services, Homelessness)</b>		
22 May 2007	Excessive dog barking at neighbouring property.	Following meetings, the owner agreed to re-house the dogs.
9 June 2007 & 9 January 2008	Request to be rehoused repeatedly ignored by Council.	Shortage of housing for complainant's particular needs – current home has been adapted to meet medical needs. BDC actively seeking alternative accommodation, but all offers of housing rejected. Subsequent complaint to Ombudsman, who declined to pursue – outside jurisdiction.
29 August 2007	Request to waive requirement for repayment of Council house discount.	Exhaustive investigation into other suitable accommodation – unable to agree to request to waiver repayment of discount.
31 January 2008	Premature complaint referred by Ombudsman – misleading/incorrect advice given in response to request to be rehoused.	Advice that was given throughout each new change in circumstances has been consistent.

Date Received	Summary of Complaint	Outcome of Complaint
<b>CONTRACT &amp; ASSET MANAGEMENT DIVISION (Housing Repairs, Car Parking)</b>		
8 May 2007	Resurfacing of shared access area – failure to provide detailed information and poor quality of work carried out.	A detailed breakdown provided of work carried out. Subsequent complaint to the Ombudsman who declined to pursue – outside jurisdiction.
22 May 2007	Alleges staff were impolite in dealing with disabled person adaptation request.	Refute allegation of impoliteness. Waiting list in operation, so delays inevitable. Tenant will be advised when a firm date to carry out the work is known.
28 November 2007	Premature complaint referred by Ombudsman – alleges that charge for replacement bath is incorrect.	Confirmed that bath was faulty and no charge is therefore payable.
11 January 2008	Time taken to effect repairs to new house.	Apology for delay and for not keeping tenant informed. Delays due to unexpectedly substantial nature of work required.
18 February 2008	Removal of hedge adjacent to car park has resulted in anti-social behaviour.	Agree that BDC contractor failed to construct suitable fence. Replacement now erected and apology offered.
<b>CORPORATE SERVICES DIVISION (Legal)</b>		
14 March 2008	Error in drawing up S106 Agreement incurred additional expenses for complainant.	Cost of legal work undertaken was reasonable – complaint not upheld.
<b>CUSTOMER SERVICES DIVISION (Council Tax, Revenues and Benefits)</b>		
26 April 2007	Delay in decision as to whether entitled to Benefit and customer given incorrect information resulting in them owing £3,000 in arrears.	Explained that delay was caused by information we were expecting the customer to provide not being received. Cannot trace any evidence to support contention that continually assured “everything was fine and correct”.
29 August 2007	Council Tax demand on premises owner is not residing in.	Agreed complaint is well founded and apologised for poor level of service received. Sent revised bill showing account in credit, or refund offered.
<b>NATURAL &amp; BUILT ENVIRONMENT DIVISION (Waste Collection, Enforcement, Private Housing)</b>		
16 July 2007	Premature complaint referred by Ombudsman – elderly mother’s bin not being collected from designated location.	Apology for poor service and steps put in place to ensure bin is collected in future.
<b>NATURAL &amp; BUILT ENVIRONMENT DIVISION (Planning Control)</b>		
12 April 2007	High Hedge Remedial Notice issued unnecessarily. Seeks withdrawal of Notice and compensation for unfair treatment by	Protracted correspondence – Notice upheld at independent appeal, but subsequently voluntarily withdrawn by BDC as hedge is now dead. Compensation not warranted.

Date Received	Summary of Complaint	Outcome of Complaint
	Council.	
9 May 2007	Delays in dealing with initial informal enquiry and subsequent planning application.	Unreserved apology for delays. Advised that planners anxious to arrive at a decision without further delay.
1 June 2007	Complaint direct to Ombudsman – difficulty in obtaining planning permission for extension.	Ombudsman declined to pursue – no or insufficient evidence of maladministration.
6 July 2007	Contradictions and inconsistencies in application of planning policies.	Acknowledge that an error was made in the committee report, but no intent to mislead or misrepresent. Apology offered. In all other respects the correct procedures were followed.
14 August 2007	Premature complaint referred by Ombudsman – no reply to correspondence. Inconsistent advice on inclusion of garden in planning application.	Reply had been sent, but misunderstanding about precise information the complainant was requesting. A subsequent letter provided clarity.
20 August 2007	Aggrieved at the manner in which planning application was handled.	Full explanation into this complex case – but assurance that correct procedures were followed at every stage.
6 November 2007	Delay in sending refund following overpayment of planning fee.	Problems which initially arose where outside Council's hands – matter now fully resolved.
26 November 2007	Extension to neighbouring property affecting amenities – lack of response to enquiries.	Apology for lack of response to telephone calls. However, concerns about the impact of the extension were taken fully into account when application was determined.
29 November 2007	Inappropriate development.	Council took full account of adopted planning policies and the interests of landscape and wildlife when determining the application.
3 December 2007	Allege objections not taken properly into consideration when determining application on neighbouring site. Failed to notify of Committee date, as requested, resulting in complainants missing the committee meeting.	Full explanation given on process involved in reaching a decision, including all objections reported to Committee. Subsequent complaint to the Ombudsman which was recorded as local settlement on payment of £50 as compensation for the time and trouble taken to make this complaint. BDC has agreed to review procedures and the way in which information is relayed to those who contribute to the planning process.
5 December 2007	Aggrieved that objections not taken properly into consideration when determining application on neighbouring site.	Full explanation given as to process involved in reaching a decision.
8 January 2008	Inadequate consultation on application for affordable housing.	Explanation of consultation process and agreement to meet to resolve any ongoing issues around planning matters.

Date Received	Summary of Complaint	Outcome of Complaint
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.
26 February 2008	Aggrieved at decision to allow extension to adjacent dwelling.	Decision reached following site inspection by Members and having taken all representations into account.
<b>NATURAL &amp; BUILT ENVIRONMENT DIVISION (Planning Policy)</b>		
10 December 2007	Assert Local Plan policy concerning change of use from commercial to residential is flawed and unhelpful advice received from officers.	Planning policies formulated to safeguard employment sites. Advice given was accurate and appropriate.

Division	Number of Complaints						
	2001/2002	2002/2003	2003/04	2004/05	2005/06	2006/07	2007/08
Community Development (Tenant Services, Homelessness, Leisure)	7	9	9	6	3	8	3
Contract & Asset Management (Housing Repairs, Car Parking)	2	3	0	5	3	4	5
Corporate Services (Legal and Administrative Services)	0	0	0	1	1	2	1
Customer Services (Revenues & Benefits)	7	1	3	11	5	3	2
Leisure & Community Services (now included under Community Services)	1	0	2	0	1	0	0
Natural & Built Environment (Waste Collection, Enforcement, Private Housing)	4	3	6	7	3	7	1
Natural & Built Environment (Planning Control)	16	15	17	22	18	14	15
Natural & Built Environment (Planning Policy)	3	1	1	0	2	0	1
Miscellaneous	0	0	0	0	1	0	0
<b>Total Number of Complaints</b>	<b>40</b>	<b>32</b>	<b>38</b>	<b>52</b>	<b>37</b>	<b>38</b>	<b>28</b>

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