

**Planning and Building Control
Upheld – December 2012**

Mr A complained that Denbighshire County Council (“the Council”) had provided him with conflicting planning advice relating to the development of a Coach House at the rear of his property, the erection of a fence at the side of his property and a piece of land at the side of his property. Mr A also complained that the Council’s complaint procedure was ineffective.

Having conducted an investigation, it was found that on the three occasions that Mr A had requested planning advice from the Council about the development of the Coach House, clear advice was provided. Furthermore, the Council’s decision to issue “Requisition for Information” documents to Mr A in order to seek further information about the development was one that the Council was entitled to make.

With respect to the erection of the fence at the side of Mr A’s property it was found that the Council initially undertook enforcement action on the basis that the fence being erected next to a highway. This information was incorrect and the Council withdrew the action. Finally it was found that the Council failed to meet the timescales set out in its own complaints procedure

Mr A’s complaint was partly upheld and it was recommended that the Council apologise for the failings identified, pay Mr A £50 in recognition of the time and trouble taken in pursuing this complaint and review its enforcement procedures to ensure that appropriate checks are made before enforcement action is undertaken. The Ombudsman was pleased to note, however, that in its response to the draft report, the Council confirmed that it would be implementing the Welsh Government’s Model Concerns and Complaints Policy in which it planned to have in place by February 2013.

Case reference 201102872

**Agriculture and Fisheries
Denbighshire County Council & Welsh Government
Upheld – January 2013**

Mr and Mrs J (and their son) owned agricultural land in the Council’s area, and had complained about the actions of Denbighshire County Council and the Welsh Government in relation to the preparation of the statutory local development plan (LDP). They complained that they were not notified of an intended survey of their land or of the outcome, namely the “downgrading” of the agricultural quality of their land from Grade 2 (“very good”) to Grade 3b (“moderate quality”). They complained further that they were not afforded an opportunity to appeal against the regarding of the agricultural classification of their land, and that the Council acted wrongly when it sent a copy of their own privately commissioned survey report to the Welsh Government. They also complained that the Council failed to send them an internal audit report relating to their concerns and to provide a satisfactory response to their complaint. They claimed that as a consequence they were prevented from making adequate representations in respect of the LDP and that the market value of their farm was adversely affected.

Their complaint against the Council was not upheld. The Council had acted reasonably, and in accordance with statutory guidance in including their land in its broad area of search for possible sites for future housing and employment

development, and in seeking information from the Welsh Government about its agricultural quality. The Council was not under any statutory or other obligation to notify them of the survey or of its results, this being a matter for the Welsh Government. The Council also had not acted unreasonably in disclosing their survey report to the Welsh Government, given that this was to be placed in the public domain as part of the LDP process. The Council had also provided a reasonable response to their complaint, and had sent them a copy of the internal auditor's report by email.

Their complaint against the Welsh Government was partially upheld. The letter of notification was not sent by recorded delivery. However, there was evidence to indicate that Welsh Government officials had contacted the complainants by telephone prior to conducting the survey. Nevertheless, and contrary to its established (but unwritten) protocol, the notification letter failed to inform the complainants that the results of the survey would be discussed with them if they wished. As a consequence, the complainants did not become aware of the survey results for 2 years. However, the complainants were not prevented from submitting representations in respect of the LDP. The role of the agricultural land classification system is not concerned with valuation matters, but to inform the planning process, and the absence of a mechanism by which the findings of an agricultural land survey can be challenged outside the LDP process is not maladministration. Moreover, the Welsh Government's offer to have a technical discussion with the Complainant's surveyor regarding the respective survey results was not unreasonable.

The Welsh Government agreed to apologise to the complainants for the error identified in this report, and to incorporate its procedures for contacting landowners into its existing written procedures for conducting agricultural land surveys.

Case reference 201100420 & 201100421

Other

Upheld – March 2013

Mr J complained about the way in which Denbighshire County Council ("the Council") managed the council tax account for his late mother's property. The Council issued a summons for non payment of council tax, against the Executors of her estate. Mr J was a joint Executor with a local based firm of Solicitors. Mr J made a payment to the council to clear the liability from his personal account.

Mr J later became aware that the new registered occupier of the property had become liable for the charges. He wrote to the Council to request a refund in respect of the monies he had paid. Mr J did not receive an acknowledgement of his request and had to chase the Council for a response. Mr J raised additional concerns about the actions taken by the Council following his request for a refund in seeking the consent of his fellow Executor prior to issuing the refund and the manner in which he felt he was treated by the Council's staff. Mr J received a refund from the Council some 4 months later.

Having considered all of the evidence available the Ombudsman concluded that the Council's management of the council tax account for the property was reasonable in the main. However, the Ombudsman did identify that the Council's service did not meet the required standard for dealing with Mr J's written request for a refund. In

addition the Ombudsman felt that the Council should also, at the very least, have advised Mr J of the steps that it had to take to seek the consent of his fellow Executor before it could issue the refund to him. The Council agreed to the Ombudsman's recommendations to apologise to Mr J and to make a payment of £100 in respect of the failings identified and time and trouble taken to pursue the complaint.

Case reference 201201315