

Local Government
OMBUDSMAN

**The Local Government Ombudsman's
Annual Letter
London Borough of Ealing
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 the London Borough of Ealing. 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

In 2007/08 I received 206 complaints against your authority, a reduction of 16 on the previous year.

Complaints about benefits dropped for the second year, from 27 to 19. Complaints about housing also dropped from 71 to 58, as did complaints about adult care services from 10 to 4. Complaints about transport and highways rose from 30 to 44. The majority of these concerned parking issues.

Decisions on complaints

During the year my office made decisions on 230 complaints against your authority. We found no maladministration in 43 complaints, and we exercised discretion to close a further 30 without requiring action by the Council. I found 46 were outside my jurisdiction.

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).

Reports

I issued three reports against your authority last year, about housing benefit, housing allocations and planning enforcement.

In the first the Council failed to put a benefit claim into payment for ten months following a successful appeal by the claimant. It only acted as a result of the complaint to me. There was a further delay of four months in carrying out a full assessment after the claimant provided additional information in support of her claim, which was not linked to the correct case reference number. The complaint also revealed that the Council was not monitoring its performance against targets agreed following previous, similar, complaints. Following my report and on my recommendation the Council agreed:

- to pay £500 compensation and apologise;
- to ensure it monitors its performance against agreed targets on a regular basis;

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- to identify other cases that remain outstanding from before October 2006 and take appropriate action and
- to review the procedure for dealing with cases with two reference numbers, with a view to simplifying them.

In the second the Council failed to notify a housing applicant of the need to have her application verified and what this would entail. The Council failed to give sufficient consideration to the applicant's personal circumstances and the difficulty she might legitimately have in providing the proof requested. The applicant missed the opportunity to secure permanent accommodation. The Council did not initially accept it had been at fault in the ways I identified and officers made misleading statements during interview, which were later retracted. Following my report and on my recommendation the Council agreed:

- to apologise to the complainant, to pay her compensation of £1,000 and to place her in a high priority application band; and
- to review how it verifies applications.

I understand the Council is currently reviewing its Housing Allocations Scheme. I should be grateful if you could let me know what stage the review has reached. If the review is now complete, it would be helpful if you could provide a copy of the new Scheme.

In the third report the Council issued a Certificate of Lawful Development for an extension. The proposed extension exceeded the size allowed under permitted development rights and the Council failed to recognise that a planning application was required. The extension is unlikely to have been approved had an application been made. The complainant now lives next door to an extension that is significantly larger than would have been the case had the Council dealt with the matter properly. Following my report and on my recommendation the Council agreed to pay the complainant £500 compensation for her time and trouble in pursuing her complaint. It has also provided me with details of a re-organisation of its Planning teams and of training provided to staff on dealing with applications for a Certificate of Lawful Development. I also asked the Council to pay the complainant the difference between the value of her property now that her neighbour's extension has been built, and the value it might have had if an extension of the correct size been approved. The Council has not yet agreed to this recommendation.

Other findings

We settled 57 complaints in all. At some 42% of all decisions, excluding premature complaints and those outside my jurisdiction, this is significantly higher than the national average.

Adult care services

We settled four adult care complaints, with compensation totalling £2,984. Two involved delays in arranging occupational therapist assessments for disabled facilities grants (DFGs).

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A third involved various faults in the way the Council dealt with the transfer of an elderly man with Alzheimer's disease from hospital to a care home. This included inadequate follow-up with the man's family regarding his discharge from hospital; an inadequate discussion with the family about the Council's role should he have to pay for his own care; a breakdown in the way the Council dealt with an assessment of his financial situation; and general poor communication with his family. The Council's response to my enquiries on this complaint was excellent; it readily apologised for its failures and proposed a number of other measures in response, including a review of its procedures. It immediately agreed to my request for £250 compensation.

The fourth was about the Council's delay in making direct payments to a service user. The Council reimbursed her the sum of the payments she had missed.

I note that the Council had a very positive inspection of adult services in February 2008 by the Commission for Social Care Inspection (CSCI). I see that CSCI judged the Council's provision of adult care services to be "good" or "excellent" in all areas inspected.

Benefits

We settled one complaint where the Council continued to recover a Council Tax benefit overpayment even though an appeal was ongoing and even when the appeal was partially upheld. This recovery included four court summonses, two liability orders and a threatening letter from bailiffs. The Council paid the complainant £500 compensation.

We settled seven housing benefit complaints with compensation totalling £5,170. Two involved substantial delays in forwarding appeals to the Appeals Service. One was about the Council's failure to properly deal with an appeal itself. The others were about errors in processing a claim over the course of one year, delay in dealing with correspondence, wrongly issued letters about recovery action and delay of five months in paying backdated benefit to a vulnerable man living in bed and breakfast accommodation.

Children and family services

We settled one complaint about a nine month delay by the Council in reaching a decision about a foster carer it had suspended. The Council paid compensation of £300.

Education

We settled four complaints about school admissions, including problems at the appeal stage. We did not recommend compensation in these cases. In two cases the children concerned were admitted to appropriate schools; in two the Council agreed to hold a fresh appeal hearing.

Two of these complaints involved the way the Council measured the home to school distance for community schools. The Council agreed to review its method of measuring home to school distance. In March of this year it explained that it had decided to consult on some proposed changes.

We settled one school exclusions complaint where the Council delayed in getting a pupil back into education following a 35 day exclusion. The Council paid compensation of £200.

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We settled one special educational needs complaint. The Council delayed in amending a child's statement of special educational needs following the breakdown of a placement. The Council failed to tell the child's parents that it would be unwilling to continue funding the provision then being made as it assumed there would be changes to her statement. It refused to agree the parents' request for a particular school, forcing them to appeal to the Special Educational Needs and Disability Tribunal (SENDIST). The parents incurred costs as a result of their appeal, which could have been avoided as the Council amended the child's statement on the eve of the SENDIST hearing. The Council paid compensation totalling £11,765 (in addition to some £9,000 already paid following consideration of the complaint through the Council's own procedure).

Housing

We settled 18 housing related complaints, with compensation totalling over £10,000.

Three were about antisocial behaviour. Two of these concerned the Council's handling of complaints about antisocial behaviour and noise from tenants of privately owned temporary accommodation. The Council agreed to review the way it deals with complaints about privately owned temporary accommodation. I should be grateful for an update on the progress of this review.

Three were about homelessness. The issues involved included the quality of advice about an eviction notice given to the complainant by an officer, the Council's failure to consider the possibility of non-bed and breakfast accommodation for the complainant, which resulted in his having to move three times in four months and the Council's failure to help a disabled complainant move his belongings from bed and breakfast accommodation at short notice.

Six were about housing allocations. One concerned the Council's failure to give the complainant priority for a move when children from her extended family came to live with her. She lived in unsuitable accommodation for much longer than might otherwise have been the case. The Council paid her £4,500 compensation to reflect this and ensured her transfer application now had the highest priority.

In a second the Council incorrectly put the complainant in a higher band than he was entitled to. When the complainant bid successfully the Council realised he was in the wrong band and would not allow him to sign for the property. The Council compensated him for the fact that his expectations had been raised by the Council's actions.

A third involved a tenant who had failed to keep to the terms of a court order for rent arrears. This meant she no longer had security of tenure and had become a tolerated trespasser. She therefore lost the right to transfer, exchange or buy her Council property. The Council explained this to her only as a result of complaints she made to her MP and to me.

The other complaints involved the way the Council handled complaints of harassment and a request for a move because of overcrowding, its delay in changing a complainant's banding which meant she missed out on the opportunity to bid for a new home and an incorrect decision to start possession proceedings against a complainant who was in temporary accommodation.

Four were about council housing repairs, three concerning faulty heating systems and one unsatisfactory temporary repairs to a roof that needed replacing.

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Two were about managing tenancies. One was about the Council's failure to provide a breakdown of water charges included in the complainant's rent. The second was about the way the Council removed hoarded belongings from the complainant's flat to facilitate the repair of a leak into the flat below. The Council charged the complainant for the clearance, but then agreed to fund some of it itself, together with a contribution towards the cost of the temporary accommodation the tenant had to move to.

Local taxation

We settled four local taxation complaints resulting in compensation totalling £960. One complaint involved the Council's failure to respond to correspondence. Another was that bailiffs charged £250 for a visit with a van even though the Council's cap was £100 without prior approval. In the third complaint we found very little evidence of fault by the Council, yet it very generously agreed to pay an outstanding debt to another Council to avoid a further complaint to that council.

Planning

We settled eight planning related complaints, with compensation totalling nearly £1,500.

Three involved the Council's delay in taking enforcement action.

The remaining five were about planning applications. Three were about the way the Council dealt with planning applications for properties close to the complainants' homes. One was about the Council's poor handling of a complaint and one about its undue delay in issuing a completion certificate for an extension.

Transport and highways

We settled six transport and highways-related complaints, with compensation totalling £235. Four were about the Council's handling of penalty charge notices. One was about the Council's handling of the renewal of a residents' parking permit and one was about the way the Council dealt with a complaint about a car blocking a driveway.

Other

We settled one drainage complaint about the Council providing incorrect information on who had responsibility for servicing a sewerage pump. The pump subsequently failed, but fortunately no damage was done. We agreed compensation of £50.

We settled one complaint about the Council's failure to deal properly with street trading. The Council issued the complainant with a licence to trade from a pitch that no longer existed following the introduction of a controlled parking zone. It then took the complainant to court for unpaid licence fees despite having promised to write them off. The Council agreed compensation of £1,000. The Council also agreed to charge the complainant 50% of the normal licence fee and provide alternative spaces for him to trade from pending the outcome of a review of street trading across the borough.

Finally we settled one complaint about the Council's failure to deal properly with the complainant's representations on behalf of his mother about accumulated rubbish and uncollected refuse on her street. The Council provided contact numbers so that future incidences could be reported.

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Your Council's complaints procedure and handling of complaints

My office referred 51 "premature complaints" to your authority for consideration, as we did not think you had had sufficient opportunity to deal with them through your own procedures. This is a considerable improvement on the previous year when the number of premature complaints referred back to your authority (76) was a matter of concern. At 22% of all decisions this is lower than the national average of 27%. This perhaps indicates a greater public awareness of the Council's own complaints procedure following its efforts to publicise this.

Fifteen premature complaints were resubmitted to me during the 2007/08 period. We reached a settlement in one; we found no maladministration in nine; my discretion was exercised to discontinue one; and one has yet to be decided.

We dealt with one antisocial behaviour complaint where the officer complained of had herself investigated the complaint. I should like to take this opportunity to remind the Council that this is not appropriate. The complaint should more properly have been investigated by someone other than the person complained of.

Liaison with the Local Government Ombudsman

The target time for councils to respond when we make enquiries is 28 days. Your Council's average response time to enquiries is 36.2 days, an increase for the second year. This is a matter of concern. The only service areas to respond to our enquiries within 28 days were Benefits and Transport and Highways. Average response times from all other service areas exceeded 28 days. I would welcome your comments on how the Council proposes to improve its response times.

The quality of responses to our enquiries remains variable. In one special educational needs complaint it took the Council four and half months to respond to the settlement. In an education admissions complaint – where time is of the essence – officers asked for extra time to respond to our enquiries and then failed to provide the information requested, necessitating further enquiries by my investigator. On occasion, Parking staff have responded direct to the complainant rather than to my investigators; I hope this has now been resolved following contact from my staff. In some cases there has been delay in agreed compensation being paid or in officers writing to update a complainant on what was happening.

However I have also referred above to the excellent and detailed response on an adult care services complaint which went a long way to satisfying the complainant's sense of grievance at the Council's identified fault. In addition, for the most part we generally receive prompt and positive responses to our proposals for settling complaints, and officers occasionally suggest settlements themselves. I am grateful for the Council's assistance here.

Training in complaint handling

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.

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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.

We also run, from time to time, seminars for Council staff who liaise directly with my office. I am pleased that your Director of Customer Services was able to attend a seminar last October and I hope the event was useful.

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
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June 2008

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

Complaints received by subject area	Adult care services	Benefits	Children and family services	Education	Housing	Other	Planning & building control	Public finance	Social Services - other	Transport and highways	Total
01/04/2007 - 31/03/2008	4	19	9	11	58	25	32	4	0	44	206
2006 / 2007	10	27	6	8	71	32	31	7	0	30	222
2005 / 2006	4	48	6	9	74	34	35	5	2	37	254

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

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2007 - 31/03/2008	3	57	0	0	43	30	46	51	179	230
2006 / 2007	1	60	0	0	39	29	20	76	149	225
2005 / 2006	0	69	0	0	49	36	37	64	191	255

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

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2007 - 31/03/2008	77	36.2
2006 / 2007	86	33.8
2005 / 2006	130	29.5

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

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
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