

**The Local Government Ombudsman's  
Annual Review  
London Borough of Brent  
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 the London Borough of Brent 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Brent. 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 on the 2008/09 statistics without drawing those comparisons.

## Enquiries and complaints received

Over a third of the 151 enquiries received by our Advice Team about Brent concerned housing. Thirty of these housing enquiries were considered to be premature and the other 21 were passed on to the investigation team - they included 11 complaints about housing allocations and four complaints about repairs.

Of the 19 enquiries about public finance – mainly relating to council tax matters - 11 were passed to the investigation team. Other complaints passed for investigation included those about planning (mostly enforcement issues), transport and highways (4 of which were about parking) and housing benefit.

## Complaint outcomes

We reached decisions on 77 complaints about Brent during 2008/09. There were 25 complaints where I found no or insufficient evidence of fault by the Council to justify further investigation and 10 complaints fell outside my jurisdiction.

Sometimes, although the Council may be at fault, I use my discretion not to pursue an investigation: either because there is no significant injustice to the complainant or because there was injustice but it has already been adequately remedied by the Council. This year I closed 33 cases using my discretion.

Often, during the course of our investigation, a council takes or agrees to take action that we consider to be a satisfactory response to the complaint. The investigation is then discontinued and is referred to as a local settlement. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints within jurisdiction that we decided against your authority 9 (14%) were local settlements.

Of the 62 complaints which were referred by our Advice Team for investigation, 18 were complaints which we had previously referred to the Council but where the complainants remained dissatisfied and resubmitted their complaints to us. But of all the resubmitted complaints which we decided, only one resulted in a local settlement.

## **Complaints by service area**

### ***Housing***

#### *Housing Allocations*

I decided 12 complaints about the Council's housing allocation system. Two of these were local settlements, both involving housing applicants who at some point moved out of Brent to live in another local authority area and were then categorised as 'out of borough' applicants.

In one there was confusion about the complainant's status in the Locata choice based lettings scheme. Following an unsuccessful homeless application the complainant moved to private rented accommodation outside the borough. The Council accepted the complainant on to its housing register and awarded medical priority but the complainant discovered that other applicants with a lower priority were being allocated properties. It took a long time before the Council was able to clarify the position, that the lettings system gives "out of borough" applicants a lower priority than those in the same band applying from within the borough. The Council also failed to send a verification which was required before an offer of accommodation in another borough could be made to the complainant. In the end the Council did secure temporary accommodation for the complainant in Brent. But the Council's actions had caused some uncertainty. Given several months delay in the Council's response at stage three of its complaints procedure, it agreed to pay £250 for the time and trouble in pursuing the complaint and a further £400 for the distress and uncertainty caused.

In the second case which was settled following our recommendation, a resident who had been rehoused within Brent, and then accepted a private rented property just outside the borough boundary when threatened with domestic violence, also kept bidding for properties through the Locata scheme. Her flat was damp and she was keen to move back into an area within Brent, so she contacted the Council a number of times about her rehousing application over a period of several years. But the investigation revealed that the Council had failed to explain to her that its allocations policy meant that she would be dealt with as an "out of borough" applicant and that her bids would not be considered until after bids from every other applicant in her priority group had been considered. That meant all her bids failed and she kept trying to increase her level of priority, including paying for a survey of the dampness in her property, without realising that it would make little or no difference to her chance of rehousing. She only registered for rehousing in the adjacent borough once she found out from Brent that she had virtually no hope of moving back there.

So she missed out on registering for rehousing outside Brent at a much earlier date. The Council agreed to pay compensation of £1,000 for her time and trouble and for her lost opportunity to get more points on another council's housing register. It also undertook to remind staff of the importance of explaining to those affected how "out of borough" housing applicants are dealt with and to write to all other "out of borough" applicants then registered to let them know.

I used my discretion to close two allocation cases where there was some fault by the Council. One involved a delay in linking a new housing application with a previous one, but the complainant's housing position was not adversely affected by that delay. In the other case, the Council had already acknowledged that it had mistakenly offered a property to someone with less priority than the complainant and had offered compensation of £270 for the distress caused and promised to make him a direct offer of accommodation, comparable to the offer he had lost out on. The complainant wanted the offer to be made in the area of his choice within the Borough. I decided that the Council's existing offer to settle the complaint was a reasonable way of remedying the injustice.

In the eight other complaints about housing allocations, I found no or insufficient evidence of maladministration to warrant further investigation. Some of these complainants were unhappy with the length of time they were waiting, or with the Council's assessment of their priority banding under the Locata lettings scheme, but I did not find the Council to be at fault.

#### *Disrepair*

I decided six complaints about council house repairs and found that the Council had been at fault in all of them. One of these resulted in a local settlement, where the Council had acknowledged its delay in dealing with a leak through a window, which the complainant first reported in late 2006. The Council had already said it would replace the window as part of a major works scheme in 2008 and had offered £450 compensation. Its investigation report on the complaint could be read as partly blaming the complainant for the delay. The Council agreed to pay a further £375 in compensation and to deal with any damp which had been caused by the leak once the new window was fitted.

In the other five cases the Council had been at fault in carrying out timely repairs or in assessing disrepair, but it had already compensated the tenants for the delay. I came to the view that the compensation it had offered in each of these amounted to a satisfactory remedy. One of these also involved unresolved leaks through the roof of a property since late 2003 and the Council had paid £2,255 compensation, which is in line with my general guidance. The other cases involved less serious delay and the Council had already awarded reasonable sums of £50, £150, £160 and £250 respectively to the complainants. This demonstrates that the Council had dealt properly with the majority of these complaints about housing repairs and, although the complainants expected more, I did not consider that further action or compensation was justified.

#### *Leaseholders*

I considered five complaints from leaseholders, one of which resulted in the Council agreeing to a local settlement following a complex investigation into service charges for many properties on an estate. The complaint, made on behalf of a group of freeholder residents, was about service charges and arrears dating back several years and delays by the Council in deciding whether to adopt the estate roads. Eighteen properties were not charged for several years because the Council had lost the deeds and could not be sure they were liable for service charges. The Council apologised for its delay in reaching a decision on the road, which was ultimately not to adopt it, and agreed to review the service charge calculations. It then noticed an error in calculating cleaning charges and agreed to credit a total of £1,200 to four properties and £20 to about 20 other properties.

In two cases the Council had already agreed to what I considered to be an adequate remedy and I decided not to pursue the matters further. One of these was about subsidence to a property and the Council had agreed to carry out the necessary remedial work and awarded the complainant compensation of £10,000 - in acknowledgment of the distress and anxiety she had experienced over a prolonged period of 11 years, the impact on her life and for her considerable time and trouble.

I found in one of the remaining complaints from a leaseholder that there had been no fault on the Council's part and the other case was not within my jurisdiction. I cannot usually deal with complaints about service charges themselves, as there is a right of appeal to the Leasehold Valuation Tribunal.

### ***Housing and Council Tax Benefit***

One of the eight complaints I considered about benefits resulted in the Council agreeing to a settlement. A commercial landlord told the Council in early 2008 that one of his tenants, to whom the Council was paying housing benefit, was over eight weeks in arrears with his rent. The Council rightly suspended the claim and investigated the case, but it then failed to pay the outstanding housing benefit to the landlord. It should have done this, given the length of time the tenant had been in arrears. After making enquiries about the case, the Council agreed to pay all the housing benefit to the landlord that was due to him from the time he had notified it of his tenant's arrears.

I used my discretion to close four of the eight benefit complaints, where there had been some fault by the Council. Its actions in one case involved delay in assessing the underlying entitlement to Council Tax benefit of a person with a visual impairment. That resulted in their arrears being referred to the bailiffs when that might otherwise have been avoided. In this, and another of these cases, I decided that the compensation paid and/or the other action the Council had taken was adequate to make up for its errors. This included, following some discussion with my office, agreement to send its computer generated letters about benefits and council tax bills in a form which could be played on a CD to the person with the visual impairment.

### ***Local Taxation***

I decided 11 complaints about Council Tax charges and arrears, two of which resulted in a local settlement. The Council retrospectively cancelled council tax benefit for one resident, which led to arrears of over £2,000, and failed to agree a reasonable repayment plan with the complainant to clear their debt. I asked the Council to carry out a means enquiry, in accordance with its Anti Poverty Strategy, to establish the person's financial circumstances - which it had not done following our initial enquiries. It initially refused, as it said that a reasonable repayment period had been offered, but it subsequently agreed to do so. The point I made was that it could not assess if the period was reasonable without knowing the details of the person's income and expenditure.

The other local settlement involved Council Tax arrears where a woman of over 90 was being sent letters by the bailiffs (acting on behalf of Brent) in her sole name, when she was living with two adult children. The Council offered to settle this complaint by changing the hierarchy of the account, so one of the adults was the primary account holder, and putting a vulnerable indicator on the account to trigger scrutiny before escalation of any recovery action. It also agreed to cancel the bailiff's charges and summons costs and withdraw the case from the bailiffs, as long as the complainant and her family paid the outstanding balance of £150 by a certain date. The Council recognised the need to identify vulnerable customers when considering the most appropriate form of debt recovery and had recently amended its procedures for referring cases to the bailiffs. This account had unfortunately been referred to the bailiffs just before the implementation of its revised procedures.

## **Planning**

I reached decisions on nine complaints about planning - five about planning applications and four about planning enforcement matters. Local settlements were reached in two of the latter. In one the Council had sent a formal enforcement notice, about an unauthorised extension and change of use to flats, to the wrong address. When discovering the error, it then served the notice again. This meant that the enforcement process was delayed by a year. The complainant lived next door to the property on which the notice was served and the enforcement action involved the removal of the rear extension and a restriction on the number of occupants in the building. The Council agreed to settle the complaint by paying £750 compensation and keeping the complainant informed of the ongoing legal proceedings against her neighbour.

The other settlement also related to a complaint from someone about their neighbour's extension, which had not been built in accordance with the approved plans. The Council had taken various enforcement actions over a period of years, including the service of a number of formal notices, but the owner had appealed against every notice. So the process had taken a very long time before the Council managed to get the extension demolished. I found that it had taken appropriate enforcement action, but it had failed to keep the complainant informed of what was happening. So she was left thinking that it was not doing anything. The Council agreed to my recommendation that it pay £250 compensation for the lack of information and that Building Control would closely monitor the extension which was then being rebuilt - to ensure that it was built in accordance with the plans.

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

I congratulate the Council on exceeding our time target to reply to our written enquiries. Its average response time to our first enquiries was 23 days, well within our 28 day target. The Council has maintained its good performance, both on response times and on the quality of its responses, from previous years.

One of its Corporate Complaints Officers attended a seminar we held for link officers in March 2009 and its Corporate Complaints Manager contacted the Manager of our new Advice Team to discuss and clarify some practical issues which arose in the early days of its operation in 2008.

The Chief Executive provided a comprehensive and helpful response to my Annual Letter for 2007/08 and acknowledged that we share a common goal of improving services and providing a responsive complaints process when things go wrong.

## **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 practice the skills needed to deal with complaints positively and efficiently.

I am pleased to see that your authority recently took up two of our courses in good complaint handling. The Corporate Complaints Manager and/or one of her team also took part in the training sessions and emphasised the importance given to complaint handling in Brent to the other officers attending.

## **Conclusions**

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I draw attention in particular to the relatively low rate of local settlement compared to the national average, together with my observations on the many complaints for which the Council provided a satisfactory remedy through its complaints procedure.

I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

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**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.

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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	Adult care services	Children and family services	Education	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	3	0	1	17	7	3	4	4	7	46
Advice given	4	2	2	13	3	5	1	4	9	43
Forwarded to investigative team (resubmitted prematures)	0	0	0	4	3	3	4	2	2	18
Forwarded to investigative team (new)	0	1	2	17	3	8	3	5	5	44
<b>Total</b>	<b>7</b>	<b>3</b>	<b>5</b>	<b>51</b>	<b>16</b>	<b>19</b>	<b>12</b>	<b>15</b>	<b>23</b>	<b>151</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	9	0	0	25	32	11	77

**Average local authority resp 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	31	23.1
2007 / 2008	38	23.5
2006 / 2007	55	27.0

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 Parks Authorities	100	0	0