

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

Introduction

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

Enquiries and complaints received

Last year our Advice Team dealt with 243 enquiries and complaints about your authority. Of these, 85 related to complaints that were deemed to be premature and so were referred back to the Council for investigation. We provided advice to 47 other enquirers on a range of issues, including my jurisdiction. Our Advice Team forwarded 111 complaints to the investigative team, including 29 which had previously been referred to the Council to consider and which had then been resubmitted to my office. Housing (71) and Transport & Highways (58) generated the most significant numbers of enquiries and complaints. These categories also accounted for the majority of the 111 complaints forwarded to the investigative team.

Complaint outcomes

Reports

When we complete an investigation, we generally issue a report. This year we issued two reports against your Council.

One case concerned *Adult Care Services*. The Council delayed for eight months in dealing with a request for a reassessment of the complainant's direct payments. As a result, the complainant missed out on payments of around £16,700. The Council agreed to pay this amount in compensation. It subsequently provided a report on its current performance in dealing with direct payments.

The second concerned *Planning Applications*. The Council wrongly issued a Lawful Development Certificate for an extension in a conservation area, even though permitted development rights had been withdrawn from the area. The Council should have realised that planning permission was required for the proposed extension. Such an application was unlikely to have succeeded as it was contrary to the Council's Design Guide for a conservation area. In addition, as the owner of the property was a Council employee, the Council should have taken more robust steps to revoke the Certificate once it became aware of its error. The extension is larger and closer to the complainant's home than might have been the case had this error not occurred.

The Council agreed to pay the difference between the valuations of the complainant's home before and after the extension was built. This amounted to £7,500. The Council also agreed to make a contribution of £3,101.67 towards the complainants' legal fees. In addition, the Council has put procedures in place to ensure that planning applications involving property in which officers have an interest are identified. I also asked that such applications be reported to the Council's Planning Committee. This is a matter I am still pursuing with the Council.

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 2008/09 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints I decided against your authority 34 (or 34.6% of decided complaints within my jurisdiction) resulted in local settlements being reached. I asked you to pay compensation totalling £15,045 in relation to these complaints.

Housing

I reached local settlements in nine such cases.

In a homelessness case, although I found little evidence of fault, the Council agreed to make an appointment with the complainant so that he could make a fresh homelessness application and, if necessary, be offered advice and assistance.

One of three allocations cases involved the Council's handling of psychiatric information provided by the complainant in support of his application for housing. On the face of it there appeared to be little evidence of fault, as the Council's medical advisor considered the information. But I had some concerns that someone who had no qualifications in psychiatry considered the information. I am pleased to note that the Council agreed to submit an up-to-date medical questionnaire to its psychiatric advisor, and also to consider whether to put the case to its Social Welfare Panel.

A second allocations case involved a complaint about the Council's handling of a housing application from a housing association tenant whose partner was disabled. Part of the complaint concerned the Council's failure to give assistance with adaptations for the disabled partner. In this case, the Council agreed to increase the applicant's priority for rehousing; to apologise for its failings; to work in partnership with the housing association including designating an officer to liaise with the complainant and to pay £500 compensation.

A third allocations complaint also involved someone with disabilities. The complainants asked the Council to bid on their behalf because one of them had disabilities making it difficult for them to bid themselves. The Council failed to bid and the complainants were denied the opportunity to be considered for two adapted properties. The Council agreed to pay £750.

One of four repairs complaints was about the Council's failure to correctly assess the complainant's entitlement to a grant. This resulted in a delay in the works being completed while the application was reassessed. In settlement, the Council agreed to fund the additional costs of any works that were beyond the scope of the grant.

A second repairs complaint concerned the Council's failure to give residents sufficient warning of lift replacement work and the likely duration of the work. The complainant's elderly mother had mobility problems that meant she was virtually confined to the flat while the works were done. The Council had already offered compensation, but agreed to my suggestion that it pay a higher amount of £250.

A third repairs complaint involved the Council's failure to properly manage a contractor doing works under the decent homes scheme, and the way it dealt with difficulties arising out of the complainant's wish to have variations on the standard specification for such work. The Council paid compensation totalling £630.

The final repairs complaint was about the Council's failure to deal properly with sewage coming up through the complainant's kitchen sink. The Council did a camera survey of the complainant's drains and de-scaled the drains the same day. It also paid £500 compensation.

I note that the Audit Commission inspected Ealing Homes – the Council's arms length management organisation – in December 2008. Although it concluded that Ealing Homes provides a fair service, I note that there were poor prospects for improvement. I also note in particular that the Audit Commission said there are weaknesses in the way complaints are managed. This may contribute to the number of enquiries the Advice Team receives on housing-related issues.

Transport and Highways

I reached settlements in nine such complaints, the majority of which were about parking matters.

One complaint was about the Council's handling of an application for a crossover outside the complainant's house. The complainant applied for the crossover in 2007, which the Council agreed to, providing the complainant paid for a lamppost to be moved. Lighting improvements for the estate were subsequently approved by the Council which resulted in the lamppost being moved once more. The lighting improvements had not been approved at the time the crossover was applied for or approved. However the Council agreed to reimburse the complainant with the cost of moving the lamppost (£1,165).

A second complaint was about the Council's failure to respond to the complainant's correspondence about parking Penalty Charge Notices (PCNs). The Council paid compensation totalling £60.

The remaining parking complaints covered such issues as failure to make a complainant aware of her appeal rights; pursuit of another complainant for numerous PCNs incurred by a cloned vehicle that had the complainant's registration details; failure to pick up a mismatch of information provided by the DVLA before issuing a PCN; issuing two PCNs for the same parking infringement; wrongly issuing a parking permit to residents in a "low car" housing development, which they had no

entitlement to; delay of five months in repairing a parking meter during which time free parking operated and local residents had difficulty parking; and failure to exercise the Council's discretion in accordance with the draft parking code of conduct. In total, the Council paid £750 for these seven complaints, and took other action such as cancelling PCNs and extending the parking permits for those residents affected by the broken meter.

Planning

I reached settlements in four such complaints.

Three of the settlements were in cases involving planning applications. Two of these involved delay by the Council in taking action. In one, the Council delayed in responding to the complainant's concerns about its failure to take account of wildlife when considering a planning application. The Council agreed to pay £50 compensation. In the other, the Council delayed for three years in deciding a retrospective application made by the complainant's neighbour for conversion of a semi-detached house into flats. It then delayed a further four months in serving an enforcement notice on the neighbour after the Planning Committee refused the retrospective application and instructed officers to take such action. The Council paid £700 compensation in this case.

In the third planning application complaint, the complainant lived in a conservation area. The Council received an application for permission to extend a neighbouring property. The Council's Conservation Panel opposed the application. New drawings were received. These were not reported to the Panel despite its request to see the revised drawings but it was concluded, nevertheless, that the Panel's concerns had been addressed. The application was approved under delegated powers, some 18 months after it had first been received. I decided that the decision to grant permission would not have been any different had the Panel seen the new drawings. But the complainant was justifiably outraged that the Panel had not been re-consulted and had experienced considerable time and trouble over a long period. They would always be uncertain what the outcome might have been had the objections been heard by the Planning Committee. The Council agreed to settle the complaint by paying compensation of £2,000.

The final planning complaint was about enforcement. In this case, the Council issued an incorrect enforcement notice and did nothing to rectify it. It had no policy for doing works in default or for taking injunctive action as a result of persistent failure to comply with a notice. Legal action against the landowner was flawed as a result of poor note keeping following site visits. The Council agreed to consider whether to serve a fresh notice; to pursue a second prosecution; to improve the quality of its record-keeping; to consider preparing a policy for works in default and to pay the complainant £500 compensation.

Education

I reached local settlements in three such cases.

Two of the cases involved school admissions complaints. In the first, although I found no evidence of fault in the Council's handling of an appeal for a place at a particular school, the Council offered the child a place following submission of additional medical information that was not available at the time of the appeal hearing. In the second, the Council offered a child a place at one of the parents' preferred schools just as my investigation of the complaint began.

The third case involved special educational needs. The Council accepted that it should have pursued home tuition more vigorously for a child suffering from ME who could not attend school. In this case, the Council had agreed to fund tuition at an online school, but this was paid for by the Learning and Skills Council. So, instead, the Council agreed to pay the complainant what it would have cost it to make that provision, resulting in compensation totalling £3,040.

Benefits

I reached local settlements in three housing benefit cases.

In the first, the Council agreed to pay £200 compensation after it failed to implement a settlement agreed on an earlier complaint. In the second, the Council agreed to consider the hardship that the complainant would suffer if it recovered an overpayment. Another complaint by the same complainant resulted in the Council agreeing to recover the overpayment at a reduced amount per week, after the complainant had unsuccessfully appealed against the overpayment.

Adult Care Services

I reached local settlements in two such cases.

In the first, the complainant was confined to one room of a hostel because of injuries and disabilities sustained as a result of domestic violence and a stroke. The Council took seven weeks to set up a care package after it completed its assessment of the complainant. The Council paid £100 compensation in recognition of the effect on the complainant of its delay.

In the second, the Council failed to advise the complainant of the outcome of its investigation of a complaint about poor treatment during a respite stay in a care home. It paid £100 compensation and advised the complainant of the outcome of its investigation.

Children and Family Services

I reached local settlements in two such cases.

In the first, the Council failed to deal properly with arrangements for a Child Protection Conference and with subsequent contact with the complainant. Several aspects of the complaint were upheld via the statutory complaints procedure, and compensation was agreed between the Council and the complainant. However, the Council delayed 11 months in making the payment and, as a result, agreed to pay a further £500 in recognition of this.

The second case also involved a child protection issue, and the Council's handling of an incident involving the complainants' son. He was removed from the family home by social workers with several police in attendance. The complainants did not know where their son was over the weekend, or how they could contact him. The Council offered £2,000 compensation following completion of the statutory complaints procedure and its acceptance of a number of failings. It subsequently agreed to my proposal that it increase this to £3,000. It also reviewed the service, and made recommendations about record keeping.

Other

I reached settlements in two other complaints.

The first was about a consumer affairs issue involving an email sent to a national newspaper, which contained inaccurate information. The Council agreed, after negotiation, to write to the complainant accepting that the emailed information was inaccurate.

The second was an environmental health complaint that covered a number of related issues about a council house located within an industrial estate. The Council agreed to take action to ensure the removal of a container from the site using health and safety legislation.

Other decisions

There were 34 complaints where I found no or insufficient evidence of fault by the Council to justify further investigation. There were also 26 complaints that fell outside my jurisdiction.

Sometimes, though the Council may be at fault, I use my discretion not to pursue an investigation. I might do this where, for example, there is no significant injustice to the complainant. But there still may be lessons for the Council to draw from such cases. This year, I closed 28 cases using my discretion.

One such case involved a complaint about action taken by bailiffs after the complainant had paid a PCN. It seems that the Council had failed to reconcile the payment. Although the Council wrote off the bailiff charge, I asked it to look at its procedures and to consider whether more could be done to reconcile payments.

Another case involved a Lawful Development Certificate (LDC) issued erroneously for an extension overlooking a highway (an alleyway). As this was not the first time a LDC had been wrongly issued, I asked the Council to let me know what action it had taken to ensure this does not happen in similar circumstances again. The Council confirmed that highways adjoining a site are now taken into account when considering applications for LDCs.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was 32.6 days. This is an improvement on last year, but still longer than the target time of 28 days. On occasions Social Services and Parking officers responded direct to the complainants rather than to me. I pointed out that this was not appropriate and it appears this practice has now stopped. I also note that the Council failed to respond in time to a request to conduct interviews and a file inspection on a planning complaint, which meant these had to be rearranged. A further issue of concern is that the Council was not routinely submitting my published reports to its Members. The planning report referred to earlier is the most recent example of this.

I continue to refer cases to the Council as premature. In one instance a building control complaint was not put through the Council's complaints procedure after my referral. The Council delayed in investigating a repairs complaint through its own procedure. During the year I decided 23 complaints that had previously been referred to the Council to consider through its own procedures and had then been resubmitted to me. In six of these I secured a local settlement. This may suggest that the Council still needs to improve its own handling of complaints.

But I have also seen examples of excellent liaison between the Council and my office. The Council responded promptly and positively to a settlement proposed on an adult care services complaint, and also readily agreed to higher compensation payments in a children and family services complaint. It provided clear and helpful responses on an environmental health complaint, and reached a local settlement on a homelessness complaint during informal enquiries, which meant a speedy conclusion could be brought to this urgent matter. On a special educational needs complaint, the Council provided a comprehensive and thoughtful response to enquiries and a settlement proposal.

My officers visited your Council in November 2008 and had a productive discussion with the former Director of Customer Services in which she outlined a number of initiatives within the Council in respect of complaints handling. I am pleased that two of your officers attended a link officer seminar in March 2009. I look forward to maintaining these effective working relationships.

Training in complaint handling

I am pleased that during 2008/09 we provided training in Good Complaint Handling and Effective Complaint Handling to 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

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.

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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	3	1	33	5	7	8	14	7	81
Advice given	5	3	2	12	3	1	5	10	9	50
Forwarded to investigative team (resubmitted prematures)	1	1	0	4	1	1	9	8	4	29
Forwarded to investigative team (new)	6	5	5	24	3	2	6	26	6	83
Total	15	12	8	73	12	11	28	58	26	243

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	2	34	0	0	34	28	26	124

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	59	32.6
2007 / 2008	77	36.2
2006 / 2007	86	33.8

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