Local Government
OMBUDSMAN

The Local Government Ombudsman's Annual Review

The Royal Borough of Kingston upon Thames

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.

Contents of Annual Review

Section 1: Complaints about the Royal Borough of Kingston upon Thames 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about the Royal Borough of Kingston upon Thames. 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

Our Advice Team received 55 complaints and enquiries during the year. Of these 14 were about housing issues, six about education, six about planning-related matters, five about children and family services, four concerned transport and highways, three concerned adult care services, three were about benefits and one was about public finance issues. A further 13 related to other issues.

We treated 16 of those complaints and enquiries as premature and in a further 14 cases advice was given (usually to make a complaint direct to the Council). The remaining complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 25 complaints against the Council during the year. In six of those cases I found no evidence of maladministration. I used my discretion not to investigate a further six. Typically these are cases where even though there may have been some fault by the Council there is no

significant injustice to the complainant. In six cases I took the view that the matters complained about were outside my jurisdiction and so they were not investigated. A further seven cases resulted in a local settlement.

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 against your Council seven were decided as local settlements.

One concerned a complaint about transport and highways. I criticised the Council for refusing to give permission for the construction of a crossing/dropped kerb so that the complainants could park their car in front of their house when their circumstances were such that the Council's policy should have suggested that it fell within the criteria for consent. I was particularly concerned given that other residents had been given consent for the same proposals. The Council agreed that the complainant should be given approval for the proposal and agreed to pay £200 compensation. I am concerned to note, though, that the Council failed to respond to my investigator's enquiries until it was threatened with a subpoena. Twelve months to deal with a comparatively straightforward matter is utterly reasonable.

In a complaint about homelessness I criticised the Council for its procedures for dealing with storage of a homeless person's possessions and for delays. The Council agreed to waive the remaining storage fees and review its procedures to ensure that all homeless applicants are given the relevant information about storage of possessions. The Council also agreed to pay £500 compensation to the complainant.

In a complaint about education admissions I found that the appeal panel failed to document the reasons why it considered qualifying measures would be needed if the complainant's child were to be admitted. The decision letter also failed to explain the basis on which the appeal panel had reached its decision. As remedy the Council agreed to arrange a new appeal hearing for the complainant.

In a complaint about special educational needs I criticised the Council for delaying making available physiotherapy and an ICT assessment following a decision by SENDIST. The Council agreed to pay £1,000 for the delay in physiotherapy and subsequent cost to the complainant of buying in provision, £500 for delay in the ICT assessment and £250 for time and trouble. Again though, I am concerned to note that although the Council at all times expressed itself willing to settle the complaint it delayed in replying to the local settlement proposal to such an extent that my staff had to prepare draft facts for a potential report.

I criticised the Council in a complaint about waste management for failing to collect the complainants' green waste when they had paid £35 to join the scheme. The Council agreed to reimburse the joining fee. In this case I am also concerned about the delay in providing a response to enquiries, with the response not provided until the Council was warned that I would consider using my subpoena powers.

The Council remedied these seven complaints in ways which I considered appropriate and paid a total of £3,220, as well as providing other benefits, to the people affected.

Of the 25 complaints that I decided in the year nine had been resubmitted after initially being referred to your Council as premature. In two cases I found no maladministration. In another three cases I exercised my discretion not to pursue the complaints further. One case resulted in a local settlement. A further three remained open at the end of the year.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 17 complaints during the year. Your Council's average response time of 78.8 days is significantly worse than last year's time of 46.8 days. I am particularly concerned that I have had to threaten to use my subpoena powers on a number of occasions in order to obtain a response to my enquiries. There were seven cases where the Council took 100 days or more to respond to my enquiries, with three cases taking in excess of 130 days. A further two cases took in excess of 90 days for a response to be received. I am sure you can appreciate that lengthy response times are unlikely to reassure complainants that the Council is taking their complaint seriously. This is also the fourth time I have raised this issue in my annual letter. I now have no alternative but to consider certifying that the Council's Chief Executive is in contempt of the High Court where significant delays amount to obstruction of my investigations.

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 practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

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 very much hope that the Council is able to make improvements, particularly in its response times, over the coming year.

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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. 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, will 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.

Appendix 2: Local Authority Report - Kingston Upon Thames For the period ending - 31/03/2009

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	0	2	2	3	2	0	2	2	3	16
Advice given	1	1	2	4	1	1	0	0	4	14
Forwarded to investigative team (resubmitted prematures)	1	1	0	3	0	0	1	1	3	10
Forwarded to investigative team (new)	1	1	2	4	0	0	3	1	3	15
Total	3	5	6	14	3	1	6	4	13	55

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	7	0	0	6	6	6	25

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	17	78.8
2007 / 2008	14	46.8
2006 / 2007	14	51.7

Average local authority response times 01/04/2008 to 31/03/2009

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 park authorities	100	0	0