

**The Local Government Ombudsman's  
Annual Review**

**London Borough of Lambeth**  
**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 Lambeth 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Lambeth. 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

The Advice Team received 398 complaints and enquiries: 171 about housing; 49 about transport and highways; 31 about local taxation and other public finance; 24 about benefits; 20 about planning and building control; 18 about education; 14 about children and family services; and 12 about adult care services. There were 59 complaints which fell within the category of Other.

We treated 126 of those complaints and enquiries as premature and in a further 70 cases advice was given (usually to make a complaint direct to the Council). The remaining 202 complaints were forwarded to the investigative team – 141 as new complaints and 61 as premature complaints that had been resubmitted.

## Complaint outcomes

I decided 218 complaints during the year. In 68 of those cases (31%) I found no evidence of maladministration. I used my discretion not to investigate a further 53 cases (24%), usually because I considered the complainant's claimed injustice was not sufficiently significant to pursue. In 43 cases (which represents 20% of all decisions made in the year) I took the view that the matters complained about were outside my jurisdiction and so they were not investigated.

## **Reports and Local settlements**

### **Reports**

When we complete an investigation, we generally issue a report. This year we issued reports against the Council on three complaints.

#### **Cases 1 and 2**

There was an avoidable delay of over eight months before the Council made a decision whether it accepted a full housing duty towards two separate complainants, representing a failure to follow the Code of Guidance on homeless persons issued by government. I did not accept that the Council's decision to reorganise its services relieved it of the need to comply with the Code; disruption was wholly foreseeable and ought to have been taken into account in a way which ensured that the Council was able to meet its duties and the requirements of good practice throughout. This is a very important area of the Council's work and people applying as homeless are often vulnerable and dealing with stressful circumstances. That the Council did not take action to prevent these delays, and the fact that it appears to have been unaware of, or unconcerned about, the likely impact of removing half its homelessness assessment officers amounted to maladministration.

The Council's delay had an impact on priority for allocations of housing from the housing register, but it did not appear, in the case of these two complainants, to have caused them serious disadvantage more than uncertainty and anxiety about their situation and time and trouble in pursuing their complaints. The Council has offered to remedy the injustice caused to each complainant by making each of them a payment of £500. I welcome its willingness to do so. In addition to that remedy, I also recommended that, when dealing with its backlog, the Council should ensure that the effective date of any homelessness decisions it makes, including those relating to these two complainants, is recorded as the date of the homelessness application (in the absence of any certainty about what alternative date would be appropriate) so that applicants are not disadvantaged by the Council's backlog in bidding for accommodation under the choice-based lettings scheme; and I recommended that the Council continue to pursue improvements to its homelessness service.

#### **Case 3**

The complainant took over the tenancy of a property from a family member and notified the Council that works were needed to the property which had not been repaired or refurbished for some years.

The Council identified that a large number of repairs were needed and commenced some repairs in 2005 but did not complete them before April 2007. The complainant had made a previous complaint to me and I had concluded there had been unreasonable delay at that stage. Then, the Council agreed that it would pay the complainant £4,000 for the delay and complete the outstanding works within 12 weeks. The repairs were not completed within this time and there was further unreasonable delay due to a failure to implement proper project management controls. I recommended that the Council should pay the complainant an additional £1,000 for the further six month delay in completing the works at the property; pay for an independent surveyor to inspect the property; and agree to complete any works the independent surveyor believed were still required within three months from the date of the surveyor's report and to the surveyor's satisfaction. In my report I said that I was very pleased that the Council had accepted my recommendations.

## 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 total complaints against your Council, 51 (23%) were decided as local settlements. I am grateful for the Council's willingness to settle these complaints.

As was the case last year, the highest number of settlements (29) was agreed in housing cases. A total of £12825 compensation was agreed. Nineteen of these 29 cases were about housing disrepair. Eight settlements were agreed in transport and highways cases and a total of £1250 paid. Five of the local settlements were in benefits complaints and a total of £1150 paid. Three complaints were about education and a total of £493 compensation was paid. Two cases were about local taxation and other public finance and a total of £50 compensation was paid. One local settlement was agreed in a children and family services case and a total of £1000 was paid. The remaining three cases fell within the category of Other and a total of £80 compensation was paid. In this review I have highlighted some of these cases.

### Case 1

A homeless applicant complained of discrimination by the Council, being in temporary accommodation since 1995 without an offer permanent accommodation with wheelchair accessibility; delays in the Council's investigation of the complaint, failure to address all of the issues raised, unnecessary reassessments leading to delay; failure to provide a copy of the file and a failure to pay compensation. The complainant felt very badly treated by the Council, particularly because he had been deprived of accommodation where his son could visit and stay for short periods. The Council agreed to pay £1,000 compensation and the complainant was able to bid for a range of properties under the Council's choice based lettings scheme. The Council agreed to make a direct offer if the complainant was not successful in obtaining a suitable property after six months.

### Case 2

The Council had failed to handle properly an offer of housing in 1995. This left the complainant in overcrowded conditions. One of the children needed a separate bedroom for medical reasons and, later on, all four children needed a separate bedroom once they turned 16. The Council failed to consider exercising discretion to consider the family for four-bedroom accommodation rather than five, failed for periods of time to have the application authorised when the complainant was not in rent arrears and failed to exercise discretion on this point when rent arrears were minimal or the result of housing benefit delays. On balance I considered it likely that the complainant would have been re-housed at some point in the period from 1995 to 2007 (when the family was eventually re-housed). So the family had to live in seriously overcrowded conditions for longer than should have been necessary. The Council agreed in April 2007 to exercise discretion to consider the family for four-bedroom accommodation and thereby improve rehousing prospects. The complainant was offered and accepted four-bedroom accommodation in November 2007. Later, after further investigation, the Council agreed to pay £3000 compensation.

### Case 3

A complainant complained to me about the way that the Council treated her following the death of her husband. She complained that the Council copied to her a letter addressed to a social worker with no covering letter. This letter included important information about the right to succeed to the tenancy. The complainant said that the Council sent out Notices to Quit and other letters very speedily and letters to her had an aggressive tone and I found that, initially, there was no recognition of the fact that the Council had agreed that she was an authorised occupant, and no

recognition of the distress she was likely to suffer faced with the loss of her home so soon after the death of her husband. The Council continued to address letters to family members when it had been informed that they were no longer alive. The Council had failed to refund overpaid council tax to the complainant but this was put right during the course of my investigation. The complainant's Councillor was not given all the relevant rent account information which caused additional distress. The Council agreed to send a written apology acknowledging lessons learned from the complaint and to pay compensation of £1,000.

#### Case 4

The Council failed to implement a previously agreed local settlement and carry out repairs to a satisfactory standard. I am grateful to the Council for agreeing to participate in a successful mediation meeting in this case at which both parties eventually reached an agreement about carrying out the repairs needed.

#### Case 5

The complainant's roof had been leaking since 2000. She stopped paying rent in 2007 because repairs had not been done, but still the Council delayed mending the roof. During the course of the investigation it was found that the complainant was eligible for an unusable room allowance of £712.15. Once this was paid, this put the rent account in credit. By the time I had completed my investigation the roof had been repaired and, in addition, the Council agreed to pay compensation of £750.

#### Case 6

The Council failed to carry out work identified when the property was void, delayed in correcting a fault with a new central heating system and failed to complete outstanding repairs. I found that there had been poor record-keeping of inspections and poor communication by the Council. The Council agreed to pay £2000 compensation.

#### Case 7

The Council's contractor removed the complainant's car from outside his home despite his mother saying it was not abandoned; failed to arrange contact with the tow truck driver; failed to wait five days before destroying his vehicle; lost details of his complaint and failed to recognise the impact on him as a disabled driver and the financial loss he had suffered. The Council agreed to compensate the complainant for the loss of his vehicle by offering damages equivalent to the value of the vehicle at time of removal. The Council was in the process of implementing a new parking contract and agreed to take account of the issues raised in this complaint. There was a long delay in the complaint process before this complaint was made to me and the Council had agreed to offer £250 compensation for this.

#### Case 8

The complainant wished to adopt a child that was in the Council's care. There was inordinate delay progressing the matter, at which point a formal complaint was submitted. The files demonstrated that after the formal complaint, matters went from bad to worse and the attitude of the social workers was soured because of the formal complaint. There was clear evidence of unfairness. In due course, the complainant abandoned the proposed adoption match because the uncertainty was having a bad affect on children already in the family. The Council apologised, accepted that there had been shortcomings in the manner in which the proposed adoption was handled and agreed to pay £1,000 in compensation in recognition of the injustice and outrage resulting from its poor handling of the matter. The Council must show an impartial approach when a complaint is made. This did not happen here and those involved in the adoption process wrongly interpreted the

complaint as evidence of unreasonableness, which then affected their assessment of the proposed match. There was clearly significant injustice to the complainant and her two children, but possibly much greater injustice to the child who was not adopted, although my investigation could not address this issue.

Total compensation agreed by the Council in the cases that were settled locally was £15958.

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

Formal enquiries were made on 132 complaints during the year. Your Council's average response time of 28.9 days is nearly 12 days less than last years figure of 40.6 and shows an excellent improvement. The Council's average response time is now only just outside the 28 days requested. I welcome the Council's hard work and considerable achievement in this respect, particularly as there were a few emailed complaints which the Council did not receive straightaway causing a delay of about four weeks in those particular cases. My staff have agreed to keep a report tracking all new emailed enquiries to the Council to ensure that they have been received. This appears to have eradicated the problem.

My officers have commented that the corporate complaints unit dealt very efficiently with the administration of complaints made to me but there are still occasions when the Council's response is not sufficiently detailed and does not include all of the evidence to support statements made, for example, extracts from files.

I have already referred above to a complaint where a mediated agreement was reached. I also welcome the Council's agreement to participate in another mediation meeting. Again, an agreement was reached with both parties.

My investigator, Ms Beck, was pleased to meet you and officers involved in dealing with complaints when she attended the Council's complaints summit in November 2008. It is evident that your Council is making significant efforts to improve the way that it responds to complaints about its services.

### **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 am pleased that during 2008/09 we provided training in Effective Complaint Handling to staff from your authority.

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	2	5	0	54	15	15	3	17	15	126
Advice given	3	1	4	26	3	5	4	10	14	70
Forwarded to investigative team (resubmitted prematures)	3	6	3	23	0	5	4	5	12	61
Forwarded to investigative team (new)	4	2	11	68	6	6	9	17	18	141
<b>Total</b>	<b>12</b>	<b>14</b>	<b>18</b>	<b>171</b>	<b>24</b>	<b>31</b>	<b>20</b>	<b>49</b>	<b>59</b>	<b>398</b>

## Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	3	51	0	0	68	53	43	218

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	132	28.9
2007 / 2008	160	40.6
2006 / 2007	206	56.2

## 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