

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

**Sefton Metropolitan Borough
Council**

**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 Sefton Metropolitan Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Sefton Metropolitan Borough Council.

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 telephone calls to our service has increased significantly since then to more than 3,000 a month. Our advisers now provide comprehensive information and advice to people who telephone, write or email. It enables citizens to make informed decisions about whether to put their complaint to us.

This means that direct comparisons with some previous year-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

During the year the Advice Team received 52 enquiries in complaints against your Council. Of these, 32 were forwarded to the investigative team for investigation. Of those investigated the greatest single number were about education (12), followed by planning and building control with six complaints.

Complaint outcomes

35 complaints were determined during the year, of which five were found to be outside jurisdiction. In six cases discretion was exercised not to pursue the complaints further, and 17 complaints revealed no evidence of maladministration.

Reports

I have issued two reports criticising the Council during the year. Both of these were about allotments. The first was about the Council's failure to deal properly with intimidation and antisocial behaviour on an allotment. I recommended that the Council should apologise formally for the way it handled allegations against the complainants by another allotment holder. I also made recommendations about the need for accessible policies for dealing with such complaints, and appropriate training for officers in implementing them. I recommended payment of £1000 compensation to the complainants for the distress they had suffered and for their time trouble in costs in pursuing the complaint.

The second report concerned the treatment of a long-standing allotment holder by the Council. The complainant refused to sign a newly introduced tenancy agreement for the allotment which appeared to be substantially different from what the Council had agreed with me would be used in future. The dispute culminated in the complainant being locked out of his allotment. I recommended that the Council should apologise to the complainant and compensate him for the inconvenience and embarrassment caused by being locked out by paying him £25 for each week he had been unable to use the allotment, and an additional £250 for time and trouble in complaining to me. I also recommended that in future disputes about allotments should be determined by someone independent of the parties, with advice as necessary from the appropriate national body.

Regrettably, the Council's reaction and response to my reports was negative and gave me cause for grave concerns about the way in which it had dealt with the issues. Those concerns are currently under discussion and I hope that they can be resolved without the need for me to issue a Further Report under Section 31 (2A) of the 1974 Local Government Act.

Local settlements

We will often discontinue enquires into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority five were locally settled. I will mention these below.

One complaint concerned adult care services and was about information given about the assistance that would be available when he went into residential care. An investigation revealed inconsistencies in the way people in this situation were treated. The Council agreed to pay a total of £200 compensation to the complainant, which was declined. The Council also undertook to review its procedures to ensure that consistent and accurate information was given in future.

In a case about the erroneous issuing of a building control certificate to the complainant's neighbour, the Council undertook to remain involved until problems were rectified, and to ensure that similar problems do not occur in future.

A complaint about rudeness by staff at a leisure centre, and delays in dealing with the subsequent complaint under the Council's internal procedure, was remedied by an apology and compensation of £30.

Another settlement was about inadequate notification of a school admission appeals panel hearing, and the late provision to the complainant of a statement from the Council that was to be considered by the panel. The Council offered a second appeal hearing.

The other education complaint that was settled was about the failure to provide escorted transport to school, despite this being specified in the child's statement of special educational needs. The Council agreed to pay £1500 compensation, this being the equivalent of what the Council would have spent as it provided the escort during the period in question.

Liaison with the Local Government Ombudsman

21 enquiries were made by my office of the Council during the year. The average number of days taken to respond was 21.7, against a target of 28 days. This is better than most similar authorities and continues the downward trend evident in the previous year when the average response time was 24.6 days, down from 35 days in 2006/07. The performance would have been even better but for one particularly complicated children and family services complaint, where it was always anticipated by my office that a response from the Council would take longer than usual.

My Investigators report that the Council is particularly positive in responding to suggestions for local settlements.

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

The two reports I issued against the Council during the year both related to allotment issues. I hope that the review of procedures resulting from the reports means that the problems identified will not recur in future. I have noted the positive attitude taken by the Council when this office makes suggestions of how complaints can be settled. This suggests that a good working relationship has developed between my office and the Council.

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.

**Mrs A Seex
Local Government Ombudsman
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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.

**Mrs A Seex
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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	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	0	0	1	2	3	2	2	10
Advice given	1	1	3	0	1	2	1	1	10
Forwarded to investigative team (resubmitted prematures)	0	0	1	0	1	1	0	1	4
Forwarded to investigative team (new)	2	2	11	0	0	5	0	8	28
Total	3	3	15	1	4	11	3	12	52

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	2	5	0	0	17	6	5	35

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	21	21.7
2007 / 2008	20	24.6
2006 / 2007	42	35.0

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