

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

Tendring District 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.

Contents of Annual Review

| | |
|--|----------|
| Section 1: Complaints about Tendring District Council 2008/09..... | 3 |
| Introduction..... | 3 |
| Enquiries and complaints received..... | 3 |
| Complaint outcomes..... | 3 |
| Liaison with the Local Government Ombudsman..... | 4 |
| Training in complaint handling..... | 4 |
| Conclusions..... | 5 |
| Section 2: LGO developments..... | 6 |
| Introduction..... | 6 |
| Council First..... | 6 |
| Statement of reasons: consultation..... | 6 |
| Making Experiences Count (MEC)..... | 6 |
| Training in complaint handling..... | 6 |
| Adult Social Care Self-funding..... | 7 |
| Internal schools management..... | 7 |
| Further developments..... | 7 |
| Appendix 1: Notes to assist interpretation of the statistics 2008/09..... | 8 |
| Appendix 2: Local authority report 2008/09 | |

Section 1: Complaints about Tendring District Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Tendring District Council. 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

Of the 26 enquiries received by our Advice Team about Tendring District Council this year, six were passed on to the Council to attempt to resolve in the first instance as the complainant had yet to exhaust the Council's complaints procedure, and it seemed that they would not be disadvantaged by doing so before complaining to me if they remained dissatisfied at the end of that process. A further three enquiries were dealt with by the provision of advice only. The remaining 17 enquiries were passed on to an investigative team for consideration, of which 11 related to planning and building control. This is not an unusual spread of complaints for a district council. It should also be mentioned that 11 is less than one per cent of the number of planning applications received by the Council in a typical year. The remaining complaints passed on to an investigative team were spread fairly evenly among the other council service categories.

Complaint outcomes

My office closed 22 complaints against your Council this year. Three were outside jurisdiction and of the rest we closed 16 because there was no maladministration or in the exercise of my discretion (usually because there was no significant injustice). Three were closed as local settlements.

Decisions and 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 we decided against your authority this year, 15.8% (3) of those within jurisdiction were local settlements.

Two of the settlements were about planning matters. In one case the Council approved two contradictory sets of plans for an extension. The complainant was only afforded an opportunity to comment on the smaller scale plan and would undoubtedly have objected to the larger extension which was actually built if they had been afforded an opportunity of doing so. We agreed that the Council should offer the complainant £1,000 to compensate for the slightly intrusive overbuild and their time and trouble in pursuing the complaint.

In the other case, the Council gave wrong advice on a request for permission for a change of use of a building. This led to the complainant opening a betting shop. The Council agreed that it would not take enforcement action over the change of use, but probably would not give planning permission for the putting up of satellite dishes which were essential to the business. The complainant decided to close the business. Because the complainant would have been able to apply for planning permission for the dishes and appeal against any subsequent refusal, this part of the complaint would have been outside my jurisdiction, but the Council agreed to offer him £200 for his avoidable time and trouble.

The remaining local settlement concerned a complainant who had not received domestic waste sacks. The settlement consisted simply of delivering some sacks, although the complainant had, strictly speaking, reported too late that the initial delivery had gone missing. This complaint illustrates that sometimes a very simple remedy is all that is required. It was a pity that this was not provided during the Council's consideration of the complaint.

Liaison with the Local Government Ombudsman

We made initial enquiries on eight complaints this year. The average response time, at 24.6 days, is now within my target and I am grateful to the Council for the significant improvement on the 33 days on average it took to respond last year.

I am glad that your link officer who deals with our enquiries was able to attend our seminar in April this year. We find that these seminars contribute to understanding of our investigative processes for the benefit of everyone involved, including, of course, the complainants.

Training in complaint handling

I am pleased that during 2008/09 we provided training in Effective Complaint Handling to staff from your authority. I hope it was found to be useful, and I am glad that you were present in person for some of the time: this illustrates to staff taking part the importance of dealing with complaints effectively.

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.

**Tony Redmond
Local Government Ombudsman
10th floor
Millbank Tower
Millbank
London
SW1P 4QP**

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.

Tony Redmond
Local Government Ombudsman
10th floor
Millbank Tower
Millbank
London
SW1P 4QP

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 | Housing | Benefits | Public Finance inc. Local Taxation | Planning and building control | Transport and highways | Other | Total |
|--|----------|----------|------------------------------------|-------------------------------|------------------------|----------|-----------|
| Formal/informal premature complaints | 1 | 0 | 2 | 0 | 0 | 3 | 6 |
| Advice given | 0 | 0 | 0 | 1 | 0 | 2 | 3 |
| Forwarded to investigative team (resubmitted prematures) | 0 | 0 | 0 | 3 | 1 | 2 | 6 |
| Forwarded to investigative team (new) | 0 | 2 | 0 | 7 | 1 | 1 | 11 |
| Total | 1 | 2 | 2 | 11 | 2 | 8 | 26 |

Investigative Team

| Decisions | MI reps | LS | M reps | NM reps | No mal | Omb disc | Outside jurisdiction | Total |
|-------------------------|---------|----|--------|---------|--------|----------|----------------------|-------|
| 01/04/2008 / 31/03/2009 | 0 | 3 | 0 | 0 | 13 | 3 | 3 | 22 |

| Response times | FIRST ENQUIRIES | |
|------------------------|------------------------|----------------------------|
| | No. of First Enquiries | Avg no. of days to respond |
| 1/04/2008 / 31/03/2009 | 8 | 24.6 |
| 2007 / 2008 | 12 | 33.0 |
| 2006 / 2007 | 19 | 33.4 |

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 |