

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

Thurrock 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 Thurrock Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Thurrock Borough 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

Last year our Advice Team dealt with 75 enquiries and complaints about your authority. Of these, 28 related to complaints that were deemed to be premature and so were referred back to the Council for investigation. We provided advice to 14 other enquirers on a range of issues, including my jurisdiction. Our Advice Team forwarded 33 complaints to the investigative team, including eight which had previously been referred to the Council to consider and which had then been resubmitted to my office. Housing, public finance and planning and building control generated the largest number of enquiries and complaints. These categories also accounted for the majority of the complaints forwarded to the investigative team.

Complaint outcomes

This year I made decisions on 39 complaints against your Council. There were 14 complaints where I found no or insufficient evidence of fault by the Council to justify further investigation. There was also one complaint that fell outside my jurisdiction. I used my discretion not to pursue investigations into 10 complaints, for instance where the injustice to the complainant was not significant enough to warrant a remedy or where a remedy already provided by the Council was considered to be adequate.

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, which were within our jurisdiction were local settlements. Of the complaints I decided against your authority, which were within my jurisdiction, 14 (36.8%) were local settlements. These settlements resulted in the Council paying just over £4,700 in compensation.

Complaints by service area

Housing

I settled seven housing complaints. Four of these complaints were about repairs.

In one complaint there was unacceptable delay by the Council in repairing a leak to the complainant's roof. The Council paid £250 in view of the delay and the complainant's time and trouble. In a second complaint the Council repeatedly repaired a complainant's walk in shower without success and failed to recognise that it was no longer suitable for the household. The Council agreed to replace the shower with a bath and paid £500 in compensation. The Council also reviewed its systems to ensure that repeat repairs are investigated more thoroughly. In a third complaint the Council delayed dealing with a damp proofing repair and the complainant's flooring was damaged. The Council agreed to pay the complainant £500 to meet the costs of a new carpet and to reflect their time and trouble. In the last complaint the Council agreed to pay £200 plus 12 weeks' half rent (totalling some £455) to the complainant for its delays in sorting out problems with blocked drains.

I settled one complaint from a council leaseholder who had received unclear information about his service charge invoice and had been summonsed as a result. The Council paid £100 to the complainant plus his costs of £86. It agreed to review the content of its invoices and correspondence.

I settled a complaint from a housing applicant whose application had been deferred due to the amount of capital the Council believed he had. This meant that the complainant was not on the housing waiting list but could not appeal against the Council's decision. The Council paid the complainant £200 and has changed the way it deals with housing applicants with capital.

I settled one other housing complaint. The complainant waited 18 months longer than his neighbours for his windows and doors to be replaced as part of an improvement scheme. The Council agreed to pay the complainant £250 for its delay.

I found no fault by the Council in five cases and that one complaint was outside my jurisdiction. I used my discretion not to pursue one complaint because any injustice caused was not significant.

Planning and building control

I settled one complaint regarding a planning application for two new houses that was delayed by the Council. The Council delayed for 10 weeks in advising the complainant that his planning application form was not valid. It also delayed responding properly to his complaint about this. The Council paid the complainant £750 in view of its delays.

I used my discretion not to investigate three planning complaints. In one other planning complaint I decided that there was no evidence of fault by the Council.

Benefits

I settled two complaints about housing benefit. In one case the Council had issued a formal caution to a complainant for benefit fraud, but had failed to take account of their mental health at the time it

issued the sanction. The Council later reviewed its sanctions and had withdrawn the caution. The Council had offered compensation to the complainant but I suggested that it increase this to £500 to take account of the distress that it had caused. The Council agreed and also agreed to issue revised notification letters regarding the benefit so that the complainant could appeal.

In the second benefits complaint I asked the Council to pay £250 to a complainant who had not received overpayment notification letters that complied with the relevant legislation. The letters the Council had sent did not give sufficient information for the complainant to appeal and in some cases did not make sense. The Council agreed to compensate the complainant and to review its notification letters to ensure that they comply with legislation.

I decided to use my discretion not to pursue one other benefits complaint as the Council had remedied its faults at stage three of its complaints procedure before the complainant made his complaint to me.

Public finance

I settled one complaint regarding council tax. The Council had pursued recovery of council tax when it had information that the complainant was not liable. The Council issued a summons and obtained a liability order. The Council agreed to pay the complainant £150 for pursuing recovery incorrectly.

I used my discretion not to pursue another complaint regarding council tax. There were faults by the Council when it started bankruptcy proceedings against a complainant due to council tax arrears. The Council's policy did not include a letter to the liable person or a visit warning of the consequences and costs prior to bankruptcy action. I did not think that these faults affected the outcome and so I concluded that there was no significant injustice. But at my request the Council has revised its policy regarding the steps it takes before starting bankruptcy proceedings.

Transport and highways

I settled one complaint regarding the Council's application to close a footpath adjacent to the complainant's home. The complainant had suffered antisocial behaviour from users of the footpath for a number of years. But the Council's application to a court to close the footpath was misconceived and it withdrew its proceedings. The Council agreed to pay the complainant £250 and to make a new application under the relevant legislation. I closed two complaints about transport and highways, as there was no evidence of fault by the Council. I decided to use my discretion not to pursue two other complaints.

Education

I received three complaints regarding education two of which concerned school admissions and one regarding special educational needs. I did not uphold any of these complaints.

Other

I settled one complaint regarding noise nuisance from the flat above a complainant. The Council delayed in responding to the complainant and did not recognise that repairs and insulation carried out to the ceiling were inadequate. The Council agreed to pay £300 to settle the complaint. In another complaint, about encroachment on a complainant's land, the Council agreed to consider enforcement action against a developer who failed to landscape in accordance with the conditions attached to a planning consent. I closed two complaints regarding antisocial behaviour as there was no evidence of fault by the Council. I used my discretion not to pursue two further complaints.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was 35 days. This is over the 28 day target we set. The time taken by your Council to respond has increased during the last

three years, particularly with regard to complaints about housing and antisocial behaviour. I find this disappointing as the Council advised me that it hoped to monitor complaints handling better this year, using a new system. I trust that the Council will give this matter some attention in order to reduce the time taken to respond to our enquiries and complaints in general.

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 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	2	2	9	2	5	2	0	4	28
Advice given	0	1	0	2	2	3	3	0	3	14
Forwarded to investigative team (resubmitted prematures)	0	0	0	4	0	1	0	0	3	8
Forwarded to investigative team (new)	0	1	3	4	2	2	6	2	5	25
Total	2	4	5	19	6	11	11	2	15	75

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	14	0	0	14	10	1	39

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	24	35.0
2007 / 2008	31	31.2
2006 / 2007	19	26.8

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