

**The Local Government Ombudsman's
Annual Review of
West Berkshire 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 West Berkshire Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about West Berkshire 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

We received 41 enquiries and complaints about your Council during 2008/08. Of these, five were considered to be premature because the matter had not been considered through your complaints procedure. In 10 cases advice was given to the complainant. The remaining 26 complaints were forwarded to the investigative team for consideration and possible investigation. Of these, four were resubmitted complaints previously treated as premature. Seven complaints about education were passed for investigation, of which five were about school admissions. There were also seven complaints about planning, five of which were about the Council's handling of applications for planning permission and the other two were about enforcement. Three complaints about highway management were passed for investigation, as were single complaints about a number of other service areas.

Complaint outcomes

We decided 33 complaints during the year. In more than half of them we found no or insufficient evidence of administrative fault. Four complaints were outside my jurisdiction. Another eight complaints were closed on discretion, usually because there was insufficient injustice to the complainant to justify pursuing the complaint.

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. Of the complaints we decided against your authority, three complaints were decided as local settlements.

An adult social care complaint was a sensitive one in which the complainant alleged that the Council had broken confidentiality by passing on information to another party without permission. In fact this had not happened, but for a while there was a lack of clarity as to whom the information had been released. Your Council agreed to make some changes to the file records and to introduce measures to ensure that the complainant's permission would be sought before disclosing information in the future.

In a complaint about drainage the complainant alleged that there had been faulty communication between the relevant departments, and confusing records and statements about which was responsible for the maintenance of a sewer, and whether it was public or private. The position was not finally clarified (a decision on whether to adopt the sewer is one for the water company to take), but your Council agreed that the complainant should receive £500 for his time and trouble in pursuing the matter, and some other residents would be offered lesser amounts. We noted that your link officer was especially helpful in dealing with the complaint.

The planning complaint was an unusual one in that the matter was referred back to the Ombudsman after a local settlement had been agreed. The original complaint was that the Council had failed to take properly into account the effect on the complainants' home of an adjacent development of several houses. There was no specific reference in the committee report of the impact on the complainants' amenity. A local settlement had been agreed, but after further correspondence from both the complainants and your Council, it was felt that it would be more appropriate to seek a 'before and after' valuation, and base the compensation on the outcome. In addition, the complainants received £500 for outrage, and as a contribution towards professional fees. Your Council showed flexibility in agreeing to reconsider the matter.

Other complaints

Two complaints were about the way the planning application for a major development was dealt with. There was a great deal of concern about the impact locally. One of the issues was the level of noise that would be generated by the activities on the site and how it had been assessed. We concluded that there was no evidence of fault in the way the Council had approached the matter or relied on the advice of the technical consultants. Generally, no fault was found with the Council's approach to a complex range of issues about the site, and to publicity and consultation with local residents.

We decided five complaints about school admissions. No fault was found in two cases and the other three were closed on discretion. One of them included an issue about the way the general session of the admission appeal had been handled. The room was too small for the number of people attending and the complainants were unable to hear the proceedings or to ask questions. While we did not find this prejudiced their appeal, your Council was asked to apologise for the unsatisfactory arrangements.

One complaint was about a matter which was considered by your Standards Committee. The complaint to me was not upheld but your Council agreed that the letter explaining the reasons for the Committee's decision was not sufficiently detailed.

Liaison with the Local Government Ombudsman

The average time taken to respond to our written enquiries was just under 19 days, a further improvement on last year's very good response times.

I should like to take this opportunity to thank your staff for their helpful approach. Responses generally are full and detailed, and provided promptly. Where I have found administrative fault, or where issues short of that have been identified about the provision of a service, your Council has been willing to take action to put things right and to agree local settlements where appropriate.

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	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	0	0	1	1	2	0	1	5
Advice given	0	1	0	1	1	1	3	3	10
Forwarded to investigative team (resubmitted prematures)	0	0	0	0	1	1	2	0	4
Forwarded to investigative team (new)	1	1	7	0	0	4	3	6	22
Total	1	2	7	2	3	8	8	10	41

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	18	8	4	33

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

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	14	18.8
2007 / 2008	12	19.5
2006 / 2007	11	29.5

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