

**The Local Government Ombudsman's
Annual Review
Bedford Borough Council
for the year ended
31 March 2010**

Local Government Ombudsmen (LGOs) provide 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, we aim to get it put right by recommending a suitable remedy. We also use 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 Bedford Borough Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Bedford 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 2009/10 and a note to help the interpretation of the statistics. Statistical data has been provided for complaints received about the council both before and after it achieved unitary status. Combined figures for 2009/10 have been used in the body of this review, except for complaints about services provided by the former Bedfordshire County Council, as these may relate to complaints by complainants in either Bedford Borough or Central Beds Councils. These are described separately.

Enquiries and complaints received

In 2009/10 we received 18 complaints and enquiries against your council. Four were about public finance including local taxation, three were about education and another three were about planning and building control. Eight were about other areas such as adult care services, housing, benefits and environmental health.

We treated three of these complaints as premature and referred them to the council and in a further four cases advice was given, usually to make a complaint to the council direct. The remaining 11 complaints were forwarded to the investigative team, of which two were premature complaints that had been resubmitted.

In 2009/10 we received three complaints and enquiries against the former Bedfordshire County Council. One complaint was made about each of the education, planning and transport categories. We treated one complaint as premature and referred the complainant to the council direct. The remaining two complaints, both of which were premature complaints that had been resubmitted, were forwarded to the investigative team.

Complaint outcomes

In 2009/10 we took decisions on 10 complaints. In three cases we found no or insufficient evidence of maladministration. In four cases the council agreed to settle the complaint locally. Ombudsman's discretion was exercised not to investigate a further three cases. Typically these are cases where even though there may have been some fault by the council there is no significant injustice to the complainant.

In 2009/10 we took decisions on six complaints against the former Bedfordshire County Council. Two complaints were outside jurisdiction and in two cases the council agreed to settle the complaint locally. In two cases we issued reports of findings that the council had acted with maladministration causing injustice. These complainants were both in the area of Bedford Borough Council so I have set out further detail about them below.

Reports

When we complete an investigation, we generally issue a report. This year we issued two reports against the former Bedfordshire County Council. The first complaint was made on behalf of the complainant's daughter who had multiple and complex special educational needs. The council failed to provide suitable education for her between April 2006, when her mother requested an alternative special school placement, and September 2007, when a suitable place became available at another school. The council fettered its discretion, by failing to take account of the girl's particular needs and circumstances in reaching its decision to refuse home tuition during that period. Nobody within the council took responsibility for ensuring that she received appropriate education while she was out of school. Her mother suffered considerable frustration and distress, and was put to time and trouble in pursuing the matter. However before my predecessor's report was issued the girl had settled well into her new school, where provision took account of the schooling she had missed, so my predecessor considered no further remedy was required for her. The council agreed our recommended remedy for her mother, namely to apologise and pay her compensation of £3,000. The council was asked to consider reviewing its home tuition policy and I understand this has now taken place.

The second report was not one my predecessor considered should be published, but the council agreed to pay the complainant a significant compensatory remedy.

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 2009/10, 26.9% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints decided against your authority which were within jurisdiction four were local settlements (40%).

Two cases settled by the council were about planning and building control. The first concerned a noise management condition to a planning permission for a permanent marquee in the grounds of a hotel. The complainant was a neighbour who said that the impact of noise from the marquee on his theatre audiences had not been properly assessed when the noise plan was approved and the condition discharged. The applicant had provided a plan twice which had been rejected by the council, but a different officer approved the very similar third plan, without having seen the previous concerns of the earlier officer. The applicant promised to provide an enhanced assessment to evaluate the impact on the complainant to the council but the council discharged the condition without seeking it. The theatre trustees now have the injustice of the uncertainty of disturbances through performances when functions clash and to rely on environmental protection legislation and the council's out of hours' noise service which has restricted hours. The council agreed to remedy the complaint by carrying out noise checks to verify the noise management plan, considering further remedial action at its cost if the noise level in the management plan does not prevent nuisance to theatre goers, and pay the complainant £750 for the time and trouble spent in pursuing this complaint and the uncertainty it faces about disturbance caused by the council's flawed decision making. The council also agreed to consider further training and a review of its procedures in relation to noise management plans, planning conditions and enforcement between commercial neighbours, to ensure lessons are learned from the complaint. My investigator noted here that the initial response from the council was very thorough.

The council settled one complaint about its actions in attempting to collect long outstanding council tax. The council had acted appropriately to attempt to collect what the complainant owed, but it failed to stop its bailiffs sending demand letters when it had said it would and the council delayed a promised response for a month. The complainant was caused injustice because he was unnecessarily caused stress and was put to time and trouble in bringing his complaint to us. The council apologised early on for its delay in complaint handling and for continuing to send the

letters. It also agreed to waive all bailiff charges owed by the complainant.

A complaint about housing benefit was also settled by the council. The council mishandled a number of housing benefit claims and direct payment requests by the complainant who was a landlord. The council agreed to review the claims, proposed compensation for its failure to notify the complainant of all of the relevant decisions and to reimburse him for payments of housing benefit made in error to a tenant.

Liaison with the Local Government Ombudsman

We made formal enquiries on 10 complaints in 2009/10. Your council's average response time of 33.7 days is a significant improvement on the 58.3 days average response time last year but still exceeds the 28 days requested. I urge the council to make a concerted effort to make a further improvement and meet the requested times next year.

Training in complaint handling

I would like to take this opportunity to remind the council that 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, as we have extended the range of courses we provide.

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 authority's services.

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June 2010

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in Barking and Dagenham, Cambridgeshire, Medway and Sefton. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at www.lgo.org.uk/schools/

Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at www.lgo.org.uk/guide-for-advisers/council-response

Training in complaint handling

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

Statements of reasons

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

Delivering public value

We 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 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.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

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June 2010

Appendix 1: Notes to assist interpretation of the statistics 2009/10

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.

Premature complaints: 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 either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

Advice given: These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

Forwarded to the investigative team (resubmitted premature and new): These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to 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 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 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 LGO 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 LGO'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 LGO'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 2009/10

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	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	0	0	1	1	0	0	0	2
Advice given	0	1	1	0	0	0	1	1	4
Forwarded to investigative team (resubmitted prematures)	0	0	0	0	0	1	0	0	1
Forwarded to investigative team (new)	1	0	2	0	2	2	0	2	9
Total	1	1	3	1	3	3	1	3	16

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	1	0	0	1	3	0	5

Response times

	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	6	31.0

Average local authority resp times 01/04/2009 to 31/03/2010

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

LGO Advice Team

Enquiries and complaints received	Housing	Public Finance inc. Local Taxation	Total
Formal/informal premature complaints	1	0	1
Forwarded to investigative team (resubmitted prematures)	0	1	1
Total	1	1	2

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	3	0	0	2	0	0	5

Response times

	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	4	37.8
2008 / 2009	3	58.3
2007 / 2008	10	36.2

Average local authority resp times 01/04/2009 to 31/03/2010

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

LGO Advice Team

Enquiries and complaints received	Education	Planning and building control	Transport and highways	Total
Formal/informal premature complaints	0	1	0	1
Forwarded to investigative team (new)	1	0	1	2
Total	1	1	1	3

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	2	0	0	0	2	0	2	6

Response times

	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
2008 / 2009	20	24.9
2007 / 2008	14	36.6

Average local authority resp times 01/04/2009 to 31/03/2010

Types of authority	<= 28 days %	29 - 35 days %	>= 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20