

**The Local Government Ombudsman's  
Annual Review  
London Borough of Ealing  
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.

# Contents of Annual Review

<b>Section 1: Complaints about Ealing Council 2009/10.....</b>	<b>3</b>
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	3
Liaison with the Local Government Ombudsman.....	7
Training in complaint handling.....	8
Conclusions.....	8
<b>Section 2: LGO developments.....</b>	<b>9</b>
Introduction.....	9
New schools complaints service launched.....	9
Adult social care: new powers from October.....	9
Council first.....	9
Training in complaint handling.....	10
Statements of reasons.....	10
Delivering public value.....	10
<b>Appendix 1: Notes to assist interpretation of the statistics 2009/10.....</b>	<b>11</b>
<b>Appendix 2: Local authority report 2009/10</b>	

# Section 1: Complaints about Ealing Council 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about Ealing 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.

## Enquiries and complaints received

Last year our Advice Team dealt with 239 enquiries and complaints about your authority. This is a similar number to 2008/09. There were 11 enquiries and complaints about adult care services, 16 children and family services, nine education, 64 housing, 15 benefits, 12 public finance (which includes local taxation), 31 planning and building control, 53 transport and highways, and 28 about other council functions. The spread across category areas is broadly similar to 2008/09.

Of the 239 enquiries and complaints received, 64 related to complaints that were deemed to be premature, as the Council had not considered them, and so were referred back to the Council for investigation. This is a considerable reduction on the number received in 2008/09 (81). We provided advice to 40 other enquirers on the service areas mentioned above as well as on my jurisdiction.

Our Advice Team forwarded 135 complaints to the investigative team, which was a significant increase on last year (111). Of the 135 complaints forwarded for investigation, 28 had previously been referred to the Council to consider and had then been resubmitted to my office. Housing (64), Transport and highways (53), and Planning and building control (31) remained the categories that accounted for the majority of the enquiries and complaints I received.

## Complaint outcomes

This year I made 107 decisions on complaints against your Council. In 31 cases I found no or insufficient evidence of fault to warrant further investigation and 25 where I exercised my discretion not to pursue the complaint, for example where the injustice was very minor. There were 23 cases that were outside my jurisdiction.

## Reports

When we complete an investigation, we generally issue a report. This year we issued three reports against your Council.

One case concerned *housing allocations*. The Council made several errors in the way it dealt with the complainant's transfer application and whether or not the complainant's elderly mother-in-law should be included as part of the household. There was also a lack of clarity in the way the Council sought the views of its medical adviser, and what it did with the advice when it received it (not just in this case, but generally; there was no record of such advice ever not being accepted). In

addition, the Council failed to give proper consideration to Article 8 of the Convention on Human Rights (regarding the respect to family life). These faults meant the complainant was denied the opportunity to be considered for suitable alternative properties. The Council agreed to pay the complainant £2,000 compensation and to backdate the complainant's priority. It also agreed to remind its staff that the medical advice it receives is just that – advice; staff can challenge the advice, and any decision on what to do in the light of it rests with the Council.

The second concerned *environmental health*. The Council decided a car had been abandoned outside the complainant's sister's home, and so removed and destroyed it. The Council had no written policy on abandoned cars and was unaware of Government advice on the subject. It agreed to pay the complainant's sister £1,500 based on the value of the car, and to introduce a policy on abandoned cars.

The third report concerned *parking*. In this case, the Council's consultation exercise for a controlled parking zone (CPZ) was inadequate and denied many of the recipients an opportunity to express a meaningful view on the proposals. Despite the obvious inadequacies of the scheme which had been implemented, the Council also failed to take steps to bring forward a review of the CPZ. The review was unlikely to happen within 12 months of the scheme being implemented as set out in its policy which meant the complainant and others might have had to put up with parking problems for longer than might otherwise have been the case. In this case, I said the Council should review the CPZ at the earliest opportunity. The Council also agreed to pay the complainant compensation totalling £1,000.

### **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 I decided against your authority 25 (or 29.8% of decided complaints within my jurisdiction) resulted in local settlements being reached. This is an improvement on last year, but still above the average across all authorities. I asked you to pay compensation totalling £25,848 in relation to these settlements.

#### *Housing*

I reached local settlements in 12 such cases.

In one of two homelessness cases the Council did not take a homelessness application from a student leaving nurses' accommodation even though she had been served with notice to leave the accommodation. Instead it called the landlord who said he would not evict her that year. My investigator spoke to the homelessness officer who said he was willing to take an application from her if her situation had changed. That seemed like a reasonable settlement so I did not recommend compensation in this case.

The second homelessness case involved a self-employed complainant who faced possession proceedings from his temporary accommodation because of the Council's delay in dealing with his housing benefit appeal. The Council should have fast-tracked his appeal but, in fact, took four months to deal with it, a delay of three months. As the appeal did not result in an increase in the complainant's housing benefit award it did not change the outcome and I considered that £125 compensation was sufficient for the Council's delay and his time and trouble.

I reached settlements in three housing allocations complaints. In the first, the Council cancelled the complainant's temporary accommodation booking. The Council subsequently agreed to reinstate the booking when she made representations but failed to let the landlord know this. As a result, the complainant and her family had to leave the temporary accommodation for one night and seek

shelter with her parents who lived some distance away. The Council offered £250 compensation following its own investigation of the complaint, and I considered this to be sufficient.

In the second housing allocations complaint, the Council delayed for six months in reviewing a decision on the suitability of temporary accommodation offered to a homeless applicant. It offered £150 compensation in response to my enquiries, and I considered this to be a reasonable offer. In the final housing allocations complaint, the Council delayed for three months in reviewing a homelessness decision. The Council offered £100 compensation for its delay and I considered this to be adequate as the decision remained the same following the review.

I reached settlements in seven housing repairs complaints. Three of these involved delays by the Council; in the first case, to implement a door entry system; in the second, to replace a kitchen extractor fan and sensor light; and in the third, to carry out repairs to the heating system and a hot water cylinder. The Council paid compensation totalling £1,343 for these complaints.

In another housing repair complaint, the Council took four months to stop a leak into the complainant's flat resulting in more damage being caused than would otherwise have been the case. I recommended £750 compensation in this case.

In a fifth housing repair complaint there was a poor standard of works done under the decent homes scheme. There was no access to the gas isolator valve and a fluorescent light was fitted even though the complainant was epileptic. The Council subsequently delayed in dealing with complaints about this and failed to help the complainant make a claim for damages against the contractor. Although I recommended compensation of £1,000 for this complaint, to be paid in two instalments, it was not until April this year that the Council made the second payment following reminders from my investigator.

Another housing repair complaint involved damp which the Council originally said was condensation, but no records were kept of the inspection on which this conclusion was based. A leak from the flat above the complainant's was eventually identified and the Council promised to complete the repair by October 2009, but it failed to do so. As part of the settlement my investigator asked for the repair to be completed by 31 March 2010. The Council agreed to pay £575 compensation, but has so far failed to provide me with a revised procedure which should ensure records of inspections are kept. I should like this to be provided now.

The final housing repair complaint involved a Council tenant who wanted his fence replaced. Although the tenant was responsible for maintaining and replacing the fence, the Council agreed to replace it. I welcome such a positive response to my investigator's enquiries.

### *Transport and highways*

I reached settlements in five such complaints, three of them involving penalty charge notices (PCNs).

The first complaint about a PCN involved the Council's delay in responding to the complainant's late representations regarding the PCN, and its response was sent to the wrong address. A year later bailiff action to recover the outstanding debt resulted in a £362 charge. In this case the Council helpfully offered to refund the charges that had been paid. It now has a monitoring system in place to ensure correspondence is responded to.

The second complaint was from someone who received the PCN whilst using a lease car on business. His employer paid the charge and deducted the money from his salary. The complainant tried to challenge the PCN, but the Council failed to tell him that there is no right to challenge a PCN once it has been paid. The Council readily agreed to offer the complainant £75 for his time and trouble, and said it had reminded staff of the need to tell people of the status of PCNs when

they call.

The final complaint involved a case where a parking attendant issued two PCNs to the complainant within a minute. The attendant had intended to cancel the first PCN but failed to do so. The complainant paid for one PCN, but did not pay for the second as he was unaware of it. The Council eventually used bailiffs to collect the fine and the complainant paid it as he did not want his work vehicle removed. The Council agreed to refund the bailiff fees and pay compensation. This amounted to £686 in total.

The final two complaints in this category involved traffic management and both were about yellow box junctions. In the first case the Council issued the complainant with a PCN for stopping in a yellow box, but the Council later decided not to take enforcement action following advice received from the Department for Transport. However, the Council misled the complainant by telling him he would get a refund but then decided against this. The Council agreed to pay the complainant £60 compensation. In the second such complaint, the Council failed to explain its reasons for deciding on the start date for refunding PCNs issued for a particular yellow box junction. The complainant was not entitled to a refund, but the Council did apologise for its failure to explain its reasons sooner.

#### *Planning and building control*

I reached settlements in three such complaints.

The first was a planning enforcement complaint where the Council failed to address the complainant's concerns about the property next door and what it had been used for since 2005. Although the complaints were about a number of issues, only the Planning Department investigated even though there was a range of other powers available to the Environmental Health Department, for example. In addition, the Council failed to notify the complainant what it was doing and then did nothing for two years after an officer left the authority. Whenever the complainant complained about the property the Council failed to take previous complaints into consideration. The Council agreed to apologise to the complainant and pay £100 compensation. It also agreed to review its arrangements for coordinating complaints involving several departments.

The two other complaints involved planning applications. In the first, the Council failed to notify the complainant of a planning application made by a neighbour. The Council agreed to pay £250 compensation to reflect the fact that the complainant had been unable to make any representations. In the second case, although the complainant made representations, the Council mislaid the letter so the representations were not taken into consideration. In this case the Council agreed to pay £100 compensation and has amended its procedure so that representations are now scanned on receipt and passed to the relevant department electronically.

#### *Adult care services*

I reached settlements in two such complaints.

The first involved the Council's failure to provide respite care for the complainant's disabled child over a seven year period. The Council also failed to properly assess the child for a care package whilst attending a residential school (with weekends and holidays at home). There were other faults including poor record keeping and delays in dealing with the complaint. The failure to provide appropriate care over seven years had a severe impact on the complainant and her child. The Council agreed to pay compensation totalling £16,000.

The second complaint involved a physically disabled person with limited movement. She needed help with basic needs such as eating and dressing, and had to be lifted using a sling. The complaint concerned the Council's delay in assessing the complainant's direct payments, which

she used to pay for carers, and in implementing and backdating payments. It also delayed in providing a new sling for lifting her, and ignored emails which described the pain the complainant suffered using the old sling. In this case the Council paid compensation totalling £3,297 to cover the backdated direct payments, and the distress and additional pain the complainant suffered as a result of its delay. It also agreed to start monitoring time taken to assess direct payments, to identify problems and improve the time taken. Last year I issued a report on a complaint about delay in assessing direct payments. It is therefore disappointing to have seen similar problems again.

### *Benefits*

I reached settlements in two housing benefit complaints. The first involved seven weeks delay in the Council reinstating the complainant's benefit following suspension. In this case the Council readily agreed to my proposal to pay the complainant £100 compensation.

In the second housing benefit complaint, the Council tried to recover over £2,000 of overpaid benefit after it suspended the complainant's payments. The complainant made three separate requests for reviews but the Council failed to deal with one of them. At my request the Council carried out a further review that established the complainant had been entitled to the benefit all along. It was my view that the Council took too long to resolve this matter and so I recommended compensation of £450.

### *Other*

This is a leisure and culture complaint about the Council's failure to tell the complainant that it gave credit refunds for football pitch bookings that were cancelled in January due to bad weather. The Council also failed to respond to the complainant's emails. As a result of my enquiries the Council gave the complainant an additional week's credit and paid £75 compensation for his time and trouble.

## **Liaison with the Local Government Ombudsman**

The average time taken by the Council to reply to our written enquiries was 36.5 days, up from 32.6 days the previous year, and significantly longer than the target time of 28 days. This is disappointing. However, response times between and within departments vary considerably. For example, the Council responded to one adult social care complaint in 14 days and to another in 82 days. For planning and building control, response times ranged from 28 days to 127 days, whilst transport and highways response times were 16 days at best and 78 days at worst.

I have seen evidence of my investigators having to make repeated requests for information, such as in the adult social care complaints. I have also seen evidence of the Council failing to address the complaint put to it by my investigators, and a failure to respond to all the questions in the enquiry letters. An example of this is the planning enforcement complaint mentioned above. In addition, some of the complaints described above show that the Council has delayed in implementing agreed settlements.

But I have also seen examples of excellent liaison between the Council and my investigators. Some of the complaints described above show that the Council has put forward its own proposals for settling complaints in response to my enquiries, and is often ready to accept my proposals. I am particularly encouraged by the Council's agreement to replace a complainant's fence when it had no obligation to do so.

My officers visited your Council in August 2009 and had a productive discussion with your Director of Customer Services and Director of Built Environment. This discussion focussed on planning matters. I am pleased that an officer from your Social Services Department attended a seminar on

the changes to the adult social care complaints procedure. I look forward to maintaining good working relationships with your officers.

### **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.

### **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/](http://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](http://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	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	3	5	0	14	7	4	10	14	7	64
Advice given	3	3	1	9	1	3	4	9	7	40
Forwarded to investigative team (resubmitted prematures)	1	2	0	8	2	1	5	7	2	28
Forwarded to investigative team (new)	4	6	8	34	5	4	11	23	12	107
<b>Total</b>	<b>11</b>	<b>16</b>	<b>9</b>	<b>65</b>	<b>15</b>	<b>12</b>	<b>30</b>	<b>53</b>	<b>28</b>	<b>239</b>

## Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	3	25	0	0	31	25	23	107

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

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	74	36.1
2008 / 2009	59	32.6
2007 / 2008	77	36.2

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