

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

**The London Borough of  
Hackney  
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 the London Borough of Hackney 2009/10.</b>	<b>4</b>
Introduction.....	4
Enquiries and complaints received.....	4
Complaint outcomes.....	4
Liaison with the Local Government Ombudsman.....	8
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 the London Borough of Hackney 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Hackney. 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

During 2009/10 we received 210 enquiries and complaints about your Council: there were 250 in the previous year. Advice was given in 44 cases and 61 were premature because the Council had not first been given an opportunity to deal with the matter.

As in the previous year, the subject area generating the largest number of contacts was housing. There were 87 enquiries and complaints. Public finance (22 cases), benefits (19), planning and building control (18) and our 'other' category (33 including anti-social behaviour, environmental health and waste management) also generating significant contacts.

Half the contacts (105) resulted in complaints being passed to my investigation team to consider. Nearly half of these (48) concerned housing: repairs (23) and allocations (12) made up the majority. There were nine cases about local taxation, eight of the 10 planning and building control complaints were about planning applications and eight of the 17 complaints in the 'other' category related to anti-social behaviour.

## Complaint outcomes

This year I made 104 decisions on complaints against your Council. Nineteen were that the complaint was outside my jurisdiction. This was generally because an alternative remedy had been used, or one was available which it was reasonable to expect the complainant to use.

I closed 20 complaints because there was either no or insufficient evidence of fault to warrant further investigation. These included complaints about anti-social behaviour for which there was no corroborative evidence. Another concerned the Council's advice to make a claim against its insurers for alleged damage to property: this advice seemed appropriate.

I exercised my discretion not to pursue investigations into 30 complaints where I did not consider the injustice warranted further expenditure of public funds. Examples include a complaint about the poor state of a stairway carpet, and a complaint that, when refunding a charge for a parking ticket, the Council returned to the complainant the postal order they had provided, rather than sending a cheque.

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 we decided, and which were within my jurisdiction, were local settlements. Of the complaints within my jurisdiction which I decided against your authority last year, 41.18% (35) were local settlements. This is well above the average which could stem from disproportionately poor service delivery, a willingness to accept fault and to agree redress, or both. These settlements resulted in the Council paying a total of £30,782 compensation.

## **Complaints by subject area**

### ***Adult care services***

I decided three complaints about adult care services. One fell outside my jurisdiction and in two cases I exercised my discretion not to investigate. One of these concerned an application from a disabled person for a Freedom Pass. While the Council did not appear to have acted unreasonably in concluding the complainant did not qualify, it did agree to make clear in the future that claims on the grounds of severe mental disorder need to show receipt of enhanced Care Programme Approach in order to qualify.

### ***Benefits***

I made decisions on eight benefits complaints. Five were outside my jurisdiction (because of the right to appeal to the Appeals Service) and one was a local settlement.

The local settlement case involved the incorrect cancellation of the complainant's council tax account, based on third party information, and delays in making amendments to the account. Recovery action was taken, and the complainant wrongly had to attend court twice. The Council agreed to pay £250 compensation. It also referred to proposed procedural changes, to be implemented by a new Quality and Development Team which I note is now up and running.

### ***Children and family services***

I made decisions on seven complaints about children and family services. Three were local settlements where significant amounts of compensation were paid.

Two of these complaints were made by young people: a brother and sister. The Council failed to keep their late mother's property safe when they were taken into care on her sudden death. As a result, the property was destroyed and of particular significance was the loss of family photographs which were the only record the complainants had of their time with their mother. The Council had a duty to use its best efforts to protect the property for the children. Before the complaints came to me the Council had already accepted fault and was very willing to find a reasonable solution. In addition to compensation for lost goods based on an inventory taken at the time, the Council agreed a payment for their time and trouble and £5,000 each to acknowledge the distress caused by the loss of such sensitive personal items.

The third local settlement concerned a complaint made by a young person who had been brought into the country illegally and against their wishes at the age of 10. When the relationship with the complainant's mother broke down in 1999 the complainant was accommodated by the Council. There followed a series of faults by the Council: it failed to consider the need for care proceedings, it failed to take action to resolve the complainant's immigration status or to act on the advice it received, there were no pathway plans in place when the complainant left care, and the complainant was not offered appropriate support from the leaving care team. The injustice to the complainant included being unable to go abroad on holiday with their foster carer because they had no passport, problems in obtaining a national insurance number, no entitlement to public funding (eg no access to council housing or access to further/higher education), and, until they

were granted leave to remain in 2007, reliance on financial support from the Asylum Team.

Again, the Council was very willing to settle the complaint and offered the complainant the services they should have received on leaving care. It also paid the complainant £3,500 compensation.

### ***Housing***

I decided 47 complaints about housing issues. Five fell outside my jurisdiction, 14 were not pursued because I did not consider the injustice warranted my involvement, and in eight cases no or insufficient evidence of maladministration was found. The remaining 20 complaints were settled locally. Some of the cases decided in this way were:

- Four (separate) complaints involved delays by the Council in addressing problems from water leaks to complainants' homes. The Council paid compensation in each case. One of these complaints was made by a leaseholder who had told the Council that water from the flat above was leaking into their home. The Council accepted that the leaseholder had brought the matter to its attention and it had not taken any action. It paid £650 for the cost of repairs and a further £150 to reflect the time and trouble to which the complainant had been put.
- Two complaints involved delay in carrying out boiler repairs. In one case the elderly and infirm complainants were without proper heating and hot water for four weeks. In the other case four members of a family had to remain in a one bedroom flat for an extra 10 weeks because the Council delayed in repairing the boiler in their new home. The Council agreed to pay the complainants £100 and £500 respectively in these cases.
- One settlement involving the management of tenancies concerned the Council's inadequate consideration of the complainant's application to succeed to his late mother's tenancy. It wrongly concluded that the complainant had no succession rights, and served a notice to quit the property. To settle the complaint, the Council reviewed and reversed its decision that there were no succession rights and paid the complainant £200 compensation.
- The Council's failure for two years to process the complainant's housing application meant they lost out on re-housing for six months. This was resolved when the Council agreed to pay them £500 compensation.
- There were three settlements of complaints concerning the Council's response to damp and mould problems in the complainants' homes. In one case there had been problems for some time but previous repairs had been ineffective or, in some cases, had contributed to problems, and the Council had failed to establish the cause of the mould. The Council agreed to implement the recommendations of an independent report and to pay £300 compensation.
- A complaint about the Council's failure to carry out necessary repairs to draughty windows, outstanding for some time, was resolved when the Council agreed to carry out a proper inspection, make the necessary repairs and to pay £350 compensation.
- An unusual case involved a complainant who had been housed by the Council when they were a young person in 2002. But they had never had a proper kitchen. Cupboards had been delivered to the property but not been installed. The Decent Homes Programme would have provided them with a new kitchen, but they did not qualify because they had rent arrears from withholding rent because of a faulty boiler and rat infestations. To settle the complaint, the Council agreed to pay £2,500 compensation, install cupboards and reinstate the complainant's home in the Decent Homes Programme.

## ***Other***

I decided 18 complaints in the 'other' category. In particular, these included decisions on complaints concerning anti-social behaviour. There were also decisions on complaints about access to information, contracts and business matters, waste management and licensing. Six of these decisions were local settlements and three of these were anti-social behaviour complaints.

In one case, the Council failed to take appropriate action to deal with an anti-social neighbour who had been issued with a Notice of Seeking Possession which the Council failed to follow up despite the deterioration in behaviour, and the presence of a five year restraining order. I could not say whether, if the Council had taken proper action, the neighbour would have been evicted or moved, but the Council agreed to pay the complainant £500 to reflect uncertainty. A further £250 was paid to cover the complainant's time and trouble in pursuing the complaint.

In another anti-social behaviour case the settlement was the Council's agreement to use a data recording machine as part of the evidence to decide whether a statutory nuisance was being committed.

## ***Planning and building control***

Four complaints about planning applications and three about enforcement were decided this year. Four fell outside my jurisdiction and I decided not to pursue investigations in two cases. The remaining complaint resulted in a local settlement and concerned the Council's actions in attaching a confusing condition to a planning permission. The Council acknowledged the condition (which related to arrangements to prevent sewage backflow) was probably unnecessary because matters were controlled under other legislation. But it left the complainant running between the Council and Thames Water to see if the condition had been discharged. The Council did make some effort to liaise with Thames Water following my involvement but in the end it was left to my investigator to confirm matters with Thames Water. The Council agreed to pay the complainant £200 for their time and trouble in pursuing matters.

## ***Public finance***

I decided six complaints about public finance: all concerned local taxation. One complaint resulted in a local settlement where £100 compensation was paid, along with an agreement by the Council to amend relevant working practices. The Council in this case had been at fault by unreasonably pursuing recovery action for council tax arrears after the complainant had notified it of a change in ownership. It failed to inform the complainant that a summons had been withdrawn until the day of the scheduled hearing, and there were deficiencies in the Council's responses to the complainant's representations.

## ***Transport and highways***

I decided seven complaints in this category, and all concerned parking matters. I did not pursue four cases, but three were settled locally.

One complaint concerned the way the Council dealt with two parking tickets (PCNs) and the disposal of the complainant's car. The complainant had been denied the opportunity of appealing to the Parking Adjudicator because the Council had failed to send him a formal rejection of representations. There were also concerns about the way the car pound had dealt with matters when the complainant voluntarily surrendered the vehicle to avoid removal and storage charges. And there were delays by the Council in responding to further representations and correspondence for 12 months. The complaint was settled by the Council cancelling the PCNs and paying £300 compensation.

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

We ask councils to respond to our enquiries within 28 days. The average time taken by the Council to reply to our written enquiries was 23.6 days, well within our target. Education, planning and building control and adult social care complaints tended to have the fastest responses. The longest time taken, 55 days on a case concerning anti-social behaviour, was at the very start of the year.

Again, I am pleased to note the positive comments that have been made by my staff about the assistance provided by the Corporate Complaints team. My staff have regularly noted that the Council has been willing to settle complaints when it realises things have gone wrong for the complainant. This is in everyone's interest, but I thank you.

## **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 am pleased that during 2009/10 we provided training in our social services Good Complaint Handling course to staff from your authority.

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	2	0	25	9	9	6	3	4	61
Advice given	0	1	3	15	3	4	2	5	11	44
Forwarded to investigative team (resubmitted prematures)	0	0	0	11	0	4	4	3	5	27
Forwarded to investigative team (new)	2	6	2	37	7	5	6	1	12	78
<b>Total</b>	<b>5</b>	<b>9</b>	<b>5</b>	<b>88</b>	<b>19</b>	<b>22</b>	<b>18</b>	<b>12</b>	<b>32</b>	<b>210</b>

## Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	35	0	0	20	30	19	104

**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	53	23.6
2008 / 2009	80	24.0
2007 / 2008	86	23.8

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