

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

**The London Borough of
Lambeth**
**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 the London Borough of Lambeth 2009/10

Introduction

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

In 2009/10 we received 384 enquiries and contacts relating to the council, compared to 398 complaints and enquiries in 2008/09. As in previous years complaints about housing represented the largest single category. We received 177 complaints (44%) about housing, very similar to the 43% of the total received in 2008/09. 65 complaints were about transport and highways, 31 about public finance, 25 about benefits, 11 each about education and children and family services, nine about adult care services and six about planning and building control. A further 49 complaints were about other matters, ranging from environmental health to antisocial behaviour.

A total of 198 complaints were passed to the investigative team (160 new complaints and 38 resubmitted premature complaints). We treated 117 complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In a further 69 complaints we gave the complainant advice.

Complaint outcomes

We decided 200 complaints against the council during the year. In 61 cases we found no evidence of maladministration, and 35 complaints were outside our jurisdiction. In a further 27 cases discretion was exercised not to investigate further. Typically these are cases where even though there may have been some fault by the council there is no significant injustice to the complainant. Seventy four complaints were settled locally.

Reports

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

My predecessor issued one report about the provision of services to a young person. Shortcomings in the nature of the care and support offered, going back to 2006, were identified. Failures on the council's part were likely to have been a factor in the disruption caused to the complainant's further education. In the absence of effective support from the council the complainant became increasingly reliant on help from a charity. The council agreed compensation of £5,000, and a further £2,000 to the charity in recognition of the role it had played in the absence of effective support from the council.

We issued a report about a homelessness complaint. The complainant complained that there were failures in the way that the council dealt with his son's homelessness, medical assessment, housing register application, a request for access to his file and complaints. The council had accepted that the complainant's son was vulnerable. For that reason, my predecessor considered that the council should have taken proactive action to assist with the completion of housing benefit applications and to advise of the implications of increasing arrears at a point when they were still manageable and when there was a reasonable prospect of recovering them. There were several examples of poor communication by the council. My predecessor considered that, but for the council's maladministration and service failure, it was likely on the balance of probabilities that the complainant's son would have been rehoused in social housing accommodation well before his arrears reached crisis point and he was evicted from his temporary accommodation after causing damage to it. To put things right we said that the council should offer the complainant's son a tenancy of one-bedroomed accommodation which would meet his identified needs; write off all the arrears he incurred apart from the amount of the charge he was initially advised that he was liable to pay; offer him £2,000 in recognition of the injustice he had experienced, and pay £250 to the complainant in recognition of his time and trouble pursuing this complaint on his son's behalf.

Another report issued by my predecessor concerned a right to buy application. The council had refused the application on the grounds that it was not the freeholder and held only a short lease of the building. Subsequently the council bought the freehold, but did not advise tenants of this fact. Some years later the tenant became aware that the council now owned the freehold, and complained that it should have advised tenants of this significant change. The complaint was upheld. The council agreed to compensate the complainant for the difference in the current purchase price and that which would have applied at the date the council became the freeholder.

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 we decided against your authority 74 were local settlements representing 44% of complaints decided which were within jurisdiction. We recommended that the council should pay a total of £38,907 in compensation in 2009/10. In this letter I shall deal with some of the more noteworthy examples.

Repairs

A number of complaints about repairs and related issues were the subject of local settlements. The council is generally amenable to settle such complaints by taking appropriate action and paying compensation. The council may wish to consider how it can deal with such complaints more effectively at an earlier stage. This would be to the obvious benefit of the complainant and reduce the need for significant compensation payments.

In 17 of the complaints about repairs that we dealt with, we recommended financial compensation totalling £13,545, ranging from £50 to £4,000. In this latter case the council accepted that there was significant disrepair causing damp and damage to the complainant's property. The council agreed to pay £2,000 for each of the two years during which the complainant had had to deal with unsuitable conditions.

In another case there was avoidable delay in repairing the complainant's central heating system. They had to rely on electric heaters during a particularly prolonged cold spell. Compensation of £500 was agreed.

In another case where there had been excessive delay in identifying the source of a leak to the

complainant's kitchen, the council agreed to pay £50 for each month's delay. This totalled £650.

I appreciate that the number of complaints about repairs that we dealt with is a small proportion of the number of repairs carried out during the year. I recognise also the immense task that the council faces in maintaining an increasingly aged stock with the competing demands placed on resources. My investigating officers are however becoming aware of a number of cases where tenants complain that appointments are made but not kept, or where calls are made without appointments and cards left. This adds immeasurably to complainants' sense of frustration. I hope that this is an issue that can be kept under review.

Building Control

In one complaint the council, as a result of an administrative error, wrongly issued a completion certificate in respect of the conversion of, and extension to, an existing building. The complainant bought a flat within the development on the false understanding that it had the benefit of a completion certificate when in fact it did not meet building regulations in a number of significant areas. We took the view that the complainant was remiss in not having a full survey of the property carried out, preferring instead to rely on the wrongly issued completion certificate. Although the complainant was obliged to fund several thousand pounds of additional work, we considered that the council's agreement to £750 compensation was adequate. Once the error had been identified the council engaged with the developer to ensure that all outstanding matters were dealt with.

In another complaint about building control the council kept inadequate records. The complainant requested information from the council which was not immediately forthcoming, and this caused additional time and trouble in the complainant's efforts to resolve the problem. The council agreed to pay compensation of £250.

Children and Family Services

In one case the council accepted that both before and after the complainant's eighteenth birthday, the council failed to provide an effective service, in particular with regards to her housing and education. The failure was compounded by the council not progressing the complaint to the second stage of the complaints process. The complainant was left feeling that concerns had not been investigated and that treatment had been less favourable than that provided to other young care leavers. The council took action to assist the complainant in achieving her objectives in a number of areas, and agreed also to compensation of £1,000.

Education

In one case the council accepted that there had been delay in identifying alternative provision for a child who had been without education following his exclusion from primary school. The council came up with a number of possibilities to help the child make up for provision that had been lost. The parent was invited to decide which of these suggestions would be most helpful, and readily agreed that this was preferable to financial compensation. In a similar case where an alternative approach was less appropriate the council agreed compensation of £650.

One case concerned a complaint about information provided to a school admissions appeal panel. The clerk's notes had not been retained in their original format so it was difficult to demonstrate to the complainant's satisfaction that proper account had been taken of the points he had made. In its initial comments the council argued that retaining a version of the notes, typed up after the meeting, was better practice. We took the view that anything produced after the meeting serves a different purpose to the contemporaneous notes produced by the clerk to the panel. The council subsequently advised that it had decided to retain the clerk's notes for future reference. In this complaint the council agreed to offer a fresh appeal with a different panel and clerk.

Homelessness

Nine complaints about homelessness were settled. In some cases we found that there had been significant delay in carrying out the assessment of the application but we could not go on to conclude that the complainant would necessarily have been rehoused sooner. In such cases we may consider that compensation for the complainant's time and trouble, and additional uncertainty, is appropriate. £250 was paid in one such complaint and £500 to each complainant in two similar complaints.

Housing Allocations

We dealt with 21 complaints about housing allocations this year. All too often our investigations demonstrate that it is the shortage of accommodation, rather than administrative fault or service failure, which leaves many applicants in unsuitable accommodation for lengthy periods.

In one complaint an applicant had refused an offer of accommodation, and had submitted representations relating to the suitability of the offer. The council in 2005, and again in 2007, failed to properly consider these representations, and consequently the application was not under active consideration when it should have been. The council agreed to compensation of £1,000.

In one housing allocation case the council failed to take an integrated approach, part of its allocations process needed to be clarified, there were examples of poor communication and there was a delay in moving the complainants into a priority group. To put things right the council agreed to give increased priority to the applicants and they were rehoused. The council also agreed to review and clarify the relevant part of its procedures and to pay £2000 compensation to the complainants.

In one case the complainant had submitted a bid for a property under the council's choice based lettings scheme. The bid was not successful. Some weeks later it was noticed that the same property had been readvertised. Although the complainant submitted a further bid, which was again unsuccessful, they complained that they should have been offered the property previously, if there were no other interested applicants with a higher priority. Following an explanation from the council, I suggested that it should consider whether or not the circumstances in which a property might be withdrawn should be set out within its allocation policy, thus ensuring that there was full openness and transparency in the operation of the policy. The council agreed with this. As far as the complainant was concerned, we could not conclude that they had suffered any injustice, because their priority was comparatively low.

Highway Management

We considered that there had been maladministration by the council in a highway management case because of the confusing state of the council's highway records in the past. This led to misleading information being given to those living in the complainant's section of a road which they relied upon. As a result of the information given to them and ward members, their expectations were raised that the council would repair their section of road. To put things right the council agreed to bring the section of the road concerned to adoptable standards at no cost to the residents and then to proceed with the adoption process. The council also agreed to pay the complainant's legal costs.

I very much welcome the council's agreement to settle the above cases.

Liaison with the Local Government Ombudsman

We made formal enquiries on 122 complaints this year. In 2009/10 the council took an average of

21 days to reply to my enquiries, well within the 28 day target I set for councils. This represents a significant improvement over the 2008/09 times, and is almost half the average time taken during 2007/08, when enquiries took 40.6 days to deal with. The council is to be commended on its year on year improvements in this area.

My investigating officers find the staff in the corporate complaints unit to be extremely helpful, and particularly responsive to ideas for settling complaints. Wherever possible, requests to expedite responses to particular enquiries are met.

My predecessor was pleased to attend your council's "Complaints Summit" in July last year, and stressed the importance of seeing the work of the Ombudsman as "free consultancy" in the work you are doing to improve complaint handling. Subsequently my Assistant Ombudsman and investigating officer met with the corporate complaints manager and officers of the complaints unit to consider matters of mutual concern.

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 Effective Complaint Handling 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/

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	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	2	4	0	59	9	15	1	14	13	117
Advice given	1	1	2	23	2	8	0	17	15	69
Forwarded to investigative team (resubmitted prematures)	1	2	0	18	5	2	0	4	6	38
Forwarded to investigative team (new)	3	4	9	75	9	6	5	33	16	160
Total	7	11	11	175	25	31	6	68	50	384

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	3	74	0	0	61	27	35	200

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	122	21.0
2008 / 2009	131	29.0
2007 / 2008	160	40.6

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