

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

The London Borough of Merton
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 Merton 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Merton. 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 75 enquiries and contacts relating to the council, compared with 76 in 2008/09. A total of 17 of these were about housing, 14 about public finance, 10 about planning and building control, seven about transport and highways, six about benefits, five about adult care services, four about education, two about children and family services. Ten others fell into the others category which covers areas such as antisocial behaviour and environmental health.

A total of 38 were passed to the investigative team (31 new complaints and seven resubmitted premature complaints). This compares with 34 complaints which were forwarded to the investigative team in 2008/09. We expect to see slight fluctuations of this kind over time. We treated 28 complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In a further nine cases we gave the complainant advice. The proportion of premature complaints is surprisingly high. This may indicate that the council's existing complaints process is not visible enough to citizens or that front line staff are reluctant to signpost it to customers. The council may wish to consider whether it could do more to encourage take up of its complaints process. The courses we provide (see later) may help with this.

Complaint outcomes

We decided 33 complaints against the council during the year. In 15 cases we found no evidence of maladministration and five complaints were outside jurisdiction.

In a further 10 cases we exercised discretion 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. One of those cases was about an education admissions appeal. At the appeal the council's presenting officer could not answer all questions put by the complainant. After several adjournments the panel decided not to proceed with the appeal and offered a fresh appeal with a new panel. We decided that the action already offered by the council before the complainant came to us was a satisfactory remedy and the same as we might achieve so we did not investigate further.

Another complaint was about a decision to grant planning permission. The complainant had objected to the planning application. We did not pursue the complaint because the complainant did not live near the site and so was not considered to have direct or substantive personal injustice.

But we were concerned that planning committee members had received a half hour “presentation” from the applicant in their private members room immediately prior to the committee meeting. The council stated that this was “factual” and not an attempt to “sell” the scheme. The proposed development was controversial. The council has said it will not hold further such meetings.

Reports

When we complete an investigation, we generally issue a report. This year we issued no reports against the council.

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, three were settled locally, 10.71% of the complaints we decided which were within our jurisdiction. The council agreed to pay £1,830 compensation in total plus refunds of gas and electricity charges and to take other steps to settle these complaints.

One of these complaints was that the council had improperly used information submitted by the complainants in the complaints process. A complaint was made about a representative of the complainants to the relevant professional body by a council officer using the council’s letterhead very soon after a complaint against the council had been submitted. This seemed likely to lead an impartial observer to conclude that the council was not taking an open-minded approach. The council agreed; to pay £250 to the complainants to recognise their time and trouble in pursuing their complaint: that the complaint to the professional body would be withdrawn by the officer concerned: to issue a personal apology to the complainants and to revise its procedures.

The other two complaints were about delays in completing housing repairs and in implementing previously agreed local settlements. In the first of these cases the council agreed to carry out all the remedial work needed, to pay £750 compensation and to refund part of the complainant’s rent and gas and electricity charges. In the second case there were unforeseen problems which delayed completion of the work required. The council agreed to find and pay for temporary accommodation for the complainant and associated expenses. The council paid £750 compensation and £80 for humidifiers to dry out the property.

I am grateful to the council for its help in settling these complaints.

Liaison with the Local Government Ombudsman

We made formal enquiries on 16 complaints in 2009/10. In the annual review for 2008/09 my predecessor noted that the council’s average response time had increased to 42 days. During 2009/10 there was a slight improvement and the average response time reduced to 38.9 days, although this is still well outside our target of 28 days. Responses on public finance and transport and highways complaints were, however, received on average within 28 days.

I hope that the council will continue to improve its response times during 2010/11. If it would help for the Assistant Ombudsman to visit your council to make a presentation to officers involved in the preparation of responses about how my office works, please let me know.

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.

**Dr Jane Martin
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

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.

Dr Jane Martin
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB

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	4	1	0	7	4	7	1	1	3	28
Advice given	0	0	0	1	0	2	2	1	3	9
Forwarded to investigative team (resubmitted prematures)	0	0	0	3	0	0	1	1	2	7
Forwarded to investigative team (new)	1	1	4	6	2	5	6	4	2	31
Total	5	2	4	17	6	14	10	7	10	75

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	3	0	0	15	10	5	33

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	16	38.9
2008 / 2009	14	42.4
2007 / 2008	29	35.8

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