

**The Local Government Ombudsman's  
Annual Review  
London Borough of Newham  
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 London Borough of Newham 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about London Borough of Newham. 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 received 190 complaints and enquiries about your Council. This is similar to the number received in 2008/9. The majority of these contacts (93) concerned housing. We received 16 complaints and enquiries regarding benefits, 14 related to education, 12 to planning and building control and 13 to transport and highways. We received seven complaints and enquiries regarding children and family services and three regarding adult care services. Thirty complaints and enquiries related to other functions of the Council.

Of the 190 complaints and enquiries received, 52 were deemed to be premature and were referred to your Council for consideration. We gave advice to 37 enquirers on the subject areas mentioned above as well as on my jurisdiction.

Our advice team forwarded 101 complaints to the investigative teams. Sixteen of these were complaints that had previously been referred to the Council as premature and had then been resubmitted.

## Complaint outcomes

I made decisions on 101 complaints against your Council during 2009/10. There were 22 cases that were outside my jurisdiction. In 23 cases I found no fault and in 19 I exercised my discretion not to pursue the complaint, often because the injustice suffered was not sufficient to justify an investigation. I issued one report against your Council and I agreed 36 local settlements.

## Reports

When we complete an investigation we generally issue a report. This year I issued one report against your Council.

In this case the Council took bankruptcy proceedings for council tax arrears despite being aware that the complainant had a severe mental illness. The complainant had built up council tax arrears over some years and had spent periods in hospital under The Mental Health Act. The Council did not investigate the possibility that the complainant was suffering from a severe mental illness by using its own records, which would have shown that this was not a suitable case for bankruptcy and that other action should have been taken. On the same day that it sent a letter to the

complainant threatening bankruptcy, it sent a form for an exemption from council tax for severe mental impairment. The Council did not have records to show why the decision was made to take bankruptcy proceedings. When the complainant made the complaint to me, the Trustee in Bankruptcy was on the point of selling her house.

The Council agreed to apply to the court to annul the bankruptcy and to pay the costs involved in this. The Council's policies had already been changed before my investigation started so I made no further recommendations there. I recommended that it used its discretion when deciding whether to backdate any severe mental impairment exemption, even if the complaint did not technically qualify for this.

## **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 that were within our jurisdiction, 36 (45.6%) were settled locally. This is a similar percentage to 2008/9 and is significantly higher than the average. These settlements resulted in the Council making payments totalling £13,176.

### *Housing*

I reached settlements in 22 housing complaints. Six settlements concerned homelessness.

In one homelessness case the Council failed to deal with disrepair in three properties provided as temporary accommodation to the complainant. The properties were damp, a severe leak caused damage and the complainant suffered electric shocks from sockets. The Council completed repairs, apologised and agreed to pay £2,000 to the complainant.

In another homelessness complaint the Council failed to recognise that the complainant was aged 17 and pregnant and therefore in priority need. The Council failed to arrange interim accommodation or notify the complainant regarding her housing application. The Council settled the complaint by paying £500 to the complainant and by discussing the lessons learned with officers. However, the Council failed to pay the agreed amount on time and so I received a further complaint. The Council agreed to pay a further £50 to the complainant in respect of this delay.

In another homelessness complaint the Council failed to write off rent arrears for a complainant's previous temporary accommodation as it had promised. This led to the complainant losing out on permanent accommodation. The Council agreed to pay £750 to the complainant and to give accelerated priority to the complainant's next two bids for accommodation. After I closed the complaint the Council delayed writing off the arrears for a further three months and had to be reminded of this by my investigator.

In one case regarding interim accommodation the Council agreed to offer accommodation closer to the complainant's children's school.

In the final case regarding homelessness the Council had arranged a refund of the credit on the complainant's rent account and it also arranged to visit the complainant to assist her in finding accommodation outside London.

Three settlements concerned housing allocations.

In one complaint, the Council delayed assessing the complainant's application for emergency housing following an assault on the complainant's husband. The family was also threatened with further violence. As a result of the delay the complainant gave up her secure housing association accommodation and moved into private accommodation. The Council agreed to give the complainant an offer of council accommodation comparable to the one she had given up and to pay her £250 for her time and trouble.

In another case, the Council delayed carrying out repairs to the complainant's temporary accommodation. The Council agreed to revise its repairs standards with its managing agents and to review its procedures to improve the repairs process. It also agreed to pay £250 to the complainant.

In the final housing allocations complaint the Council delayed dealing with complaints about disrepair in the complainant's temporary accommodation. When the property was inspected by the Council's environmental health officer, one room was found to be too small to be counted as a bedroom and so the family had been placed in a property which did not meet their assessed needs. The Council agreed to rehouse the complainant in alternative accommodation and pay the complainant £550.

I settled 9 complaints regarding housing repairs

In one complaint the Council promised to replace the complainant's kitchen under the decent homes scheme but it then decided that the kitchen was acceptable. The Council agreed with my recommendation that it should inspect the complainant's kitchen again and then decided it would replace the kitchen. The Council also offered to pay £300 to the complainant for their time and trouble.

In another complaint regarding the decent homes scheme, the complainant disagreed with the Council's decision that it should not replace the kitchen, bathroom and windows in the property. I found that there was no fault by the Council regarding the kitchen and bathroom, but I recommended that the Council should review its decision regarding the windows and pay compensation of £270 for delays in repairing floorboards.

In the third complaint the Council paid £250 to a leaseholder who complained that the Council failed to remove rubbish left by tenants that damaged her garden fence and subsequently caused flytipping. The Council delayed dealing with the complaint and had difficulty arranging access. Eventually the Council agreed with the complainant to carefully remove the rubbish through her home and to pay her £250.

I reached settlements in four other complaints regarding delay in carrying out repairs. These concerned failing to resolve leaks, rewiring a property, delay in repairs to a bathroom, and several missed appointments where contractors failed to attend. The Council agreed to pay compensation totalling £1,375 in these cases.

In another complaint regarding housing repairs, the Council failed to make good the damage to the complainant's home, following a leak, as agreed in settlement for a previous complaint made to me the year before. This resulted in more visits than should have been necessary for a complainant who had mental health problems. The Council agreed to pay compensation to the complainant and I recommended that this be increased to £300 following further delays.

In the final complaint regarding housing repairs another complainant complained that the Council had failed to complete repairs agreed in a previous local settlement or pay the compensation agreed. The Council agreed to complete the repairs and pay £100 to the complainant.

I reached settlements in four other housing complaints, three of which concerned regeneration and improvement and one managing tenancies.

Two complaints concerned the Council's decision not to replace tenants' kitchens under the decent homes scheme. In one complaint the Council agreed to inspect the kitchen again and it then agreed to carry out substantial refurbishment. In the other complaint the Council agreed to replace the kitchen and to pay compensation of £100.

In the third complaint the Council upheld its decision not to replace the complainant's bathroom but the Council failed to respond properly to the stage three complaint due to a disagreement between the Council and its partner, Newham Homes. In the end the Council offered to pay compensation of £1,250 to the complainant and carry out repairs after a further inspection.

In the complaint regarding managing tenancies the Council failed to set up a rent account for four months. The Council settled the complaint by offering to write off arrears of £75.

### *Benefits*

I settled three complaints regarding housing benefit.

In one complaint the Council failed to respond to two appeals made by the complainant. The Council also delayed assessing the complainant's council tax benefit and as a result took action to recover council tax arrears. The Council agreed to progress the appeal to the tribunal service and to remove the recovery costs that it had added to the council tax account. It also agreed to pay the complainant £600.

In the second, a landlord complained that the Council had paid its tenant four weeks of housing benefit when the Council had been informed that the tenant was in arrears of more than eight weeks. Where a council is told there are eight weeks of arrears the rent should be paid directly to the landlord. The Council agreed to pay the four weeks housing benefit of £536 to the landlord plus £50 for the time and trouble caused to them.

In the third housing benefit complaint I found that there was no fault by the Council regarding the way it processed the complainant's appeals but payments had been credited to a rent account when they should have been paid by cheque to the complainant. The Council agreed to send payment to the complainant by cheque and in addition generously agreed to write off a housing benefit overpayment of £140.

### *Transport and highways*

I settled one complaint regarding a penalty charge notice. The complainant had tried to challenge this but the Council had not received his letter. The Council agreed to act as if the letter had been received and put the complainant back in the appeals process.

### *Planning and building control*

I settled one complaint regarding planning and building control. The Council failed to consult the complainant regarding a large development to the rear of complainant's home. I did not find that the decision on the planning application was affected by this fault but the Council also unnecessarily prolonged the complaints procedure when she complained. The Council agreed to pay £500 to the complainant and to consider enforcement action regarding windows that did not accord with the permission.

## *Children and family services*

I settled two complaints regarding children and family services.

In the first complaint the Council failed to consider financial assistance to a complainant who had adopted a child with behavioural problems. The Council was able to consider this from October 2003 but did not do so until 2007. When the complainant came to me it had agreed to pay a backdated allowance to 2005 but refused to consider backdating this further. Following my investigation the Council agreed to consider backdating the financial assistance from 2003, once the complainant provided further information. The Council also offered to pay £900 to the complainant and to pay for carpets and a new bed. However, I am concerned to note that the Council does not appear to have implemented this settlement as agreed, and I am considering a new complaint about this.

In the second complaint, the Council accepted in 2006 that it had given the complainant inaccurate information regarding finance for an adoption placement. Although it intended to pay compensation of £250 it failed to do so. When the complainant tried to complain in 2008 an acknowledgement was sent but no further action was taken. The Council agreed to apologise and to pay the £250 it had agreed in 2006 plus an additional £150 for the delay.

## *Education*

In this case the Council lost the complainant's student loan application and this led to a delay in her receiving her loan payment. The Council was initially reluctant to accept it was at fault for losing the application but did subsequently agree to pay £70 to the complainant for this delay.

## *Other*

I reached settlements in six complaints regarding other matters dealt with by the Council. Five complaints concerned anti social behaviour and one, disposal on death.

In the first complaint regarding anti social behaviour the Council failed to investigate properly the complainant's allegations about harassment and racist behaviour by their neighbours. The neighbours made counter allegations. The Council's investigation did not appear even handed and appeared biased in favour of the complainant's neighbours. I recommended payment of £1,000 to the complainant.

In the second complaint the Council failed to respond adequately to a complaint about anti social behaviour by people playing football and cricket at night in a car park opposite the complainant's home. The Council did not progress matters, did not communicate properly and did not respond at all to the final stage of the complaint. In response to my enquiries, the Council failed to show what had been done to deal with the problem. The Council agreed to pay £500 to the complainant and to provide an action plan to deal with the problem.

In another complaint regarding anti social behaviour associated with a car park, the Council agreed to work with the Police to review the issues and set up a ward panel for residents to express their views.

In a complaint regarding noise nuisance the Council failed to respond to many emails sent by the complainant over three months. The Council apologised and agreed to pay £150 to the complainant.

The fifth anti social behaviour complaint concerned noise nuisance from a neighbour. The Council did not find evidence of statutory noise nuisance by the neighbour but it agreed to install noise equipment in the complainant's house and to consider taking action under the tenancy agreement.

In the final complaint regarding other functions of the Council, the parent of a tenant who died in Council accommodation complained about the way that he was dealt with in a telephone conversation with a Council officer. The Council agreed that it had not handled the matter well and it apologised and paid £100 to the complainant.

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

Your Council responded to our written enquiries within 26.2 days on average. This is an increase on the average time taken in 2008/9 (22.4 days) but remains within our target time of 28 days.

The quality of the responses to my enquiries has varied. I have seen evidence that the Council has not responded in full to all the questions asked. This has led to delay and further enquiries needing to be made. Council officers have sometimes been reluctant to agree to local settlements. But in other cases I have also seen evidence that the Council has been willing to make proposals to resolve matters and take positive action.

When settlements have been agreed, the Council has, on several occasions, delayed implementing these as shown in the settlements I have described above. It concerns me that the Council does not appear to monitor the implementation of local settlements. This is unsatisfactory for the complainants who are forced to make further complaints to me, and unsatisfactory for the Council as it creates additional work and further compensation payments. This may be an issue for the Corporate Complaints Unit to consider.

Two of your officers attended our link officer seminars this year. Your staff also attended our seminar on the changes to the adult social care complaints procedure. I hope that they found this useful.

### **Training in complaint handling**

I am pleased that during 2009/10 we provided training in effective complaint handling for adult social care to staff from your authority.

We have extended the range of courses we provide. 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**

<b>Enquiries and complaints received</b>	<b>Adult care services</b>	<b>Children and family services</b>	<b>Education</b>	<b>Housing</b>	<b>Benefits</b>	<b>Public Finance inc. Local Taxation</b>	<b>Planning and building control</b>	<b>Transport and highways</b>	<b>Other</b>	<b>Total</b>
Formal/informal premature complaints	0	1	1	30	2	3	3	3	9	52
Advice given	2	2	4	10	1	2	1	9	6	37
Forwarded to investigative team (resubmitted prematures)	0	1	0	7	2	0	1	2	3	16
Forwarded to investigative team (new)	0	6	2	47	4	0	7	7	12	85
<b>Total</b>	<b>2</b>	<b>10</b>	<b>7</b>	<b>94</b>	<b>9</b>	<b>5</b>	<b>12</b>	<b>21</b>	<b>30</b>	<b>190</b>

**Investigative Team**

<b>Decisions</b>	<b>MI reps</b>	<b>LS</b>	<b>M reps</b>	<b>NM reps</b>	<b>No mal</b>	<b>Omb disc</b>	<b>Outside jurisdiction</b>	<b>Total</b>
<b>2009 / 2010</b>	<b>1</b>	<b>36</b>	<b>0</b>	<b>0</b>	<b>24</b>	<b>18</b>	<b>22</b>	<b>101</b>

**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	67	26.2
2008 / 2009	64	22.4
2007 / 2008	42	27.7

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