

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

Thurrock Borough Council
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 Thurrock Borough Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Thurrock Borough Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

Our advice team received 85 complaints and enquires, a 13% increase on last year's number. We sent 26 to the Council to be dealt with under your complaints procedure and in 19 cases we provided advice to the enquirer.

The remaining 40 complaints were sent to the investigation team: this is seven more than last year. Five were complaints which had previously been referred to the Council but the complainant remained unhappy with the outcome and so resubmitted their complaints to us.

As was the case last year, the largest number of complaints which were passed to the investigation team concerned housing. Half of the housing complaints were about disrepair.

Seven complaints about planning were passed for investigation and all but one of these related to the Council's handling of applications for planning permission.

Five complaints about local taxation were sent to the investigation team, as were three each about anti social behaviour, education and children and families services.

Complaint outcomes

Over the year we decided 46 complaints including one published report and 15 local settlements. I made a finding of no or insufficient evidence of maladministration in 19 of the complaints and there was just one complaint which was outside my jurisdiction. There were 10 complaints where I exercised discretion not to pursue an investigation; one reason why I may decide not to investigate a complaint is where there is insufficient evidence that an injustice has been caused to the complainant.

Report

When we complete an investigation we generally issue a report. This year I issued one report about local taxation. The complainant had a long history of council tax arrears and the Council had issued a statutory demand as part of the recovery process; this is the first step towards bankruptcy proceedings. To avoid bankruptcy the complainant was given the option of paying the arrears in instalments. However, he was told there would be a £400 fee to set up the instalment plan. The

complainant agreed to pay by instalments but made it clear he objected to the fee which he thought was excessive. The Council maintained that it was right to charge the fee whilst the complainant continued to object; he also requested information about how the fee was calculated.

I found there was no legislation which allowed for the arrangement fee to be charged; independent legal advice obtained by the Council also reached the same conclusion. I also found the charging policy had been introduced by the Council's contractor (who ran Revenues and Benefits on behalf of the Council) without reference to any internal scrutiny, members, or legal advice.

Your Council quickly agreed to stop charging the fee and it agreed to reimburse everyone who paid the fee; it was also agreed to give everyone who had paid the fee a goodwill payment of £40. I decided to issue a report because I thought the complaint raised issues which are of a general public interest.

Local settlements and other complaint outcomes by service area

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 15 were local settlements which represent 33.3% of our decisions on complaints which were within jurisdiction.

Children and family services

There was one complaint in this category which I decided as a local settlement. A hospital had alerted the Council to a potential child protection issue. However, although the hospital quickly told the Council that the referral had been a mistake the Council insisted on doing a full investigation. The complaint was settled on the basis that the Council agreed to review its initial assessment and apologise to the parents.

In another complaint concerning child protection I decided not to pursue an investigation because I did not think an injustice had been caused to the complainant. But I did highlight to your Council my concerns over the lack of record keeping, and about a delay in passing on concerns about child welfare to a different council.

Education

I made three decisions about Education and two of these were local settlements. In one your Council agreed to offer a fresh school admission appeal after I found that the Council had not provided enough information to prove that the school could not accept any more students. Some evidence was only given verbally at the hearing and there were also inaccuracies in the way the distance between home and the school was discussed.

In another complaint you agreed to pay compensation of £800 after I found that the Council had failed to promptly clarify whether an adult would be at home to supervise home tuition for a child with special educational needs. If the Council had been more proactive in seeking clarification then it is likely that the child would not have lost out on a month of home tuition. I also noted, however, that the parent could have done more to try to clarify the situation.

Housing

I decided six housing complaints as local settlements. Five of them were about repairs. In one complaint your Council agreed to pay compensation of £250 after I found there had been a nine month delay in fixing a window panel. In another complaint issues about water ingress needed to

be dealt with via an insurance claim. But, in the interim the Council failed to consider the need for internal decoration which was its responsibility. The complainant carried out the internal decorations and the Council agreed to pay the equivalent of what this had cost.

In another complaint, a delay in removing asbestos led to a delay in other work being completed; there had also been a failure to tell the tenant it would not carry out the work recommended following a damp inspection. In this complaint I asked you to pay compensation of £200 and you also agreed to write to the tenant to explain the decision about the condensation and assess whether other repairs were needed.

Another complaint concerned an allegation that a Council worker had made inappropriate comments of a sexual nature. I found that the Council had failed to investigate the complaint as promised. You quickly agreed to pay £200 to settle the complaint.

In a complaint where there was an allegation that the Council had taken too long to carry out various repairs, before I had completed my enquires you agreed to pay £300 and to raise a work order for a number of repairs, including some that had not previously been raised as a problem.

Finally, there was a local settlement concerning housing allocations. The complainant had been offered a transfer because she needed to move urgently due to domestic violence. But she turned the flat down because she said, "it was not fit for animals." Because she refused the flat her banding was reduced. I did not find any evidence to support her allegation about the condition of the flat but I welcomed the Council's offer of another top band offer in an attempt to resolve the complaint.

Local taxation and other public finance

In addition to the report which I have mentioned above, there was one local settlement. There had been mistakes in the administration of two council tax accounts which led to a liability order being issued and bailiffs being instructed. I also found there had been a delay in providing my office, and the complainant, with full and accurate information about the accounts. In response you agreed to waive the arrears and the charges; you also apologised for the visit by the bailiff.

Planning and building control

Two complaints in this category were decided as local settlements. In one there had been a long delay in making a decision about what to do with an unauthorised fence. The fence was put up by the housing department but did not have planning consent; neighbours then complained about the 'unsightly fence'. Although it was accepted that the fence required planning consent there had been a long period of delay when no decisions were made about whether to take enforcement action or submit a planning application. There had also been a failure to keep residents informed. You agreed to pay £100 to the complainant for the uncertainty of not knowing what would happen to the fence and you agreed to make a decision by the end of March 2010.

In another complaint the Council had already established, as part of its own investigation, that there had been a number of procedural faults in the way the applicant's planning applications had been handled. There had been delay, poor record keeping and a failure to liaise and consult; compensation of £500 had been offered. The complainants felt this was inadequate and said, "we, and our architect, have been frustrated by the Council's failure to respond to emails and telephone calls." I found that it had taken six months for the Council to approve the materials for the construction of the house. This delay meant the complainants spent longer than would have been the case in rented accommodation. You agreed to increase the compensation to £3,000 and you had already introduced a number of procedural improvements; this included staff training in customer care, and a review of file and complaint handling. During the course of the investigation you reported that since the procedural changes had been introduced there had been a 66%

reduction in complaints over the course of a year.

Other

Within this category there were three local settlements.

A complainant claimed she had been unfairly treated because she had been threatened with possible eviction due to anti-social behaviour. An important aspect of this case was that the person was considered to have mental health problems although she did not recognise this. I did not find there had been any fault in the way the complaints of anti-social behaviour had been investigated. However, the Council's investigating officer thought there had been a lack of joined up working between housing and mental health; both departments have now agreed joint working arrangements.

There was a complaint from a cricket club about a dispute over who was responsible for damage caused to the pitch by weed killer and whether the Council responded appropriately to health and safety concerns about the storage of chemicals. The Council had already agreed to pay for the cost of a new pitch and to review the way it stored chemicals. In addition, I asked your Council to reimburse the cost of the soil test which the club had conducted to establish what had damaged the pitch.

The final local settlement involved a complaint about missed refuse collections. Your Council had acknowledged there were problems, mainly caused by bad weather and inconsiderate parking. Measures had been put in place to try to improve matters; this included a period of monitoring, the use of parking enforcement powers and further parking restrictions. I thought these measures were reasonable but I also asked you to pay £50 to the complainant in respect of the time and trouble she had been put to in pursuing her complaint.

Liaison with the Local Government Ombudsman

I welcomed the opportunity to meet with you this year and I hope you found my visit helpful. I also note that a member of your staff attended seminars we held in July 2009 and March 2010 on the new adult care complaints procedures. An officer also attended a seminar for link officers which we held in May 2009.

In terms of your response times, over the year it has taken your Council an average of 23.6 days to respond to our written enquires. I was pleased to see this as it is significantly quicker than the 35 days it took last year and is well within the 28 days in which we ask councils to respond.

Training in complaint handling

In previous years we have provided training in Good/Effective Complaint handling to staff from your authority. We also have courses to deliver during 2010/11. I have enclosed some information on the full range of courses available together with contact details for enquiries and further bookings.

Whilst investigating complaints this year we have seen some complaints which have progressed to stage three of your complaints procedure only for the complainant to be told that a stage three will not be completed because the Council does not think there is anything to add to the stage two response. This may be something that the Council would wish to review as part of the work which is, I believe, currently under way to look at the operation of the complaints procedure.

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	3	0	7	1	7	1	1	5	27
Advice given	2	2	0	4	1	1	1	2	6	19
Forwarded to investigative team (resubmitted prematures)	0	0	0	3	1	0	0	0	1	5
Forwarded to investigative team (new)	1	3	3	6	1	5	7	3	6	35
Total	5	8	3	20	4	13	9	6	18	86

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	15	0	0	19	10	1	46

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	29	23.6
2008 / 2009	24	35.0
2007 / 2008	31	31.2

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20