

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

**The London Borough of
Waltham Forest**

**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 Waltham Forest 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Waltham Forest. 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 151 complaints and enquiries, which is a small reduction on last year when we received 162. We sent 41 cases to the Council to be dealt with under your complaints procedure and in 16 cases we provided the enquirer with advice.

The advice team forwarded 94 complaints to the investigation team; this is 20 more than last year. Of these, 18 were complaints which had previously been referred to the Council but the complainant remained unhappy with the outcome.

As was the case last year, the service area which attracted the largest number of complaints was housing; 24 were forwarded for investigation which included homelessness (three), allocations (seven), repairs (10), sales/leaseholds (two) and private housing grants (two). Last year it was also repairs which attracted the largest number of complaints about housing.

Investigators received 12 complaints concerning transport and highways; seven were about parking and five concerned highway management.

There were significantly more complaints forwarded for investigation within the "other" category; 19 as opposed to six last year. Of these 19, eight concerned anti-social behaviour and seven were about waste management.

Complaints about education included five about school admissions. There were six complaints about children and family services. There were nine complaints about housing benefit and six about council tax which were forwarded for investigation. And of the nine complaints about planning, five concerned planning applications and four were about enforcement.

Complaint outcomes

Over the year we decided 82 complaints about your Council. I issued one report this year and decided 23 complaints as local settlements. I made a finding of no or insufficient evidence of maladministration in 21 of the complaints. I was unable to investigate nine complaints because they were outside my jurisdiction. There were 28 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 children and family services. In this complaint I found that the Council had delayed providing proper help and support to a child who first started asking for help when she was 13. She had experienced a number of traumas including rape, abortion, drug taking and mental health problems. However, although the Council initially responded reasonably to her request for help, it then failed to assess her needs appropriately; it failed to take her wishes into account and failed to liaise with other professionals who were trying to help her.

Support and services were eventually provided but they should have been provided sooner and, in the interim, the child suffered harm and distress that could have been avoided. There was a period when she was out of school and the Council failed to ensure that she was provided with education during this time.

I also found that her complaints had been poorly handled. The social services investigation report was weak with poor analysis and inconsistent and contradictory findings. The Council then refused to accept the findings of the review panel but failed to give adequate reasons for that refusal.

I found that there had been maladministration which had caused an injustice. In order to remedy that injustice I asked the Council to pay the complainant £7,000 in compensation and to apologise. I also recommended that the Council should review how it assesses children who ask for help and review how it handles complaints. The Council has confirmed that it implemented all of my recommendations.

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, 23 were local settlements, which represents 31.5% of the decisions we made on complaints which were within jurisdiction.

Adult care services

I decided three complaints about the care of adults. One concerned the Council's decision to close a care home but I did not find there had been any fault by the Council. Another complaint was outside of my jurisdiction because the complainant wanted compensation for an injury they had suffered which they thought had been caused by poor practice by a member of staff. I was unable to pursue an investigation because personal injury claims are best dealt with by the courts.

Children and family services

I decided seven complaints about the care of children. There was one local settlement and one report (already mentioned above).

In one complaint there were failings in the way the Council dealt with reports of inappropriate behaviour by a child. The Council was right to start child protection proceedings but it failed to communicate properly with the parents and the child, and it failed to explain what it was doing or why. This meant the assessment process was flawed because the family did not know what was happening. And, as in the complaint where I issued a report, there was poor complaint handling and a delay in carrying out the second stage of the Council's investigation process. But, once the complaint had been referred to me, the Council readily agreed to pay £500 in compensation and to

apologise to the family. I also welcomed your agreement to review the information which is provided to families when they are subject to child protection proceedings.

I decided not to pursue a complaint about decisions that had been made about the care of a child. But, whilst I did not find fault in relation to the child, I did, again, find that there were problems in the way the complaint was handled. The complainant could have been told about the statutory complaints process sooner, there was delay in progressing the complaint and the outcome of the complaint was not well recorded. However, the Council had already agreed to pay £250 in compensation, and said it would implement some procedural improvements, so I decided it was not necessary for me to pursue the complaint further.

Education

I made six decisions on complaints about education and two of these were local settlements.

There was a complaint that parents had been told not to submit certain information, including medical evidence, to an education appeal panel in respect of the refusal of a place at the preferred school. The complainants believed that if this evidence had been presented then they might have won. The Council offered a fresh appeal, which was successful, and the child got a place at the school.

The second local settlement involved a complaint that the Council had failed to provide appropriate education, for the equivalent of five terms, and failed to ensure that the conditions of a statement of special educational needs were met. There was delay by the Council in providing alternative education after the child had been unofficially excluded; by the time the Council met the parents to discuss a place, the child had fallen into a chaotic lifestyle and was in secure custody. The child was released but by the time the Council suggested another meeting a year later the child was again in custody. On release, a few months later, the Council started to offer appropriate training but by this time the child would not cooperate. It should be said that the family did not always cooperate as fully as it could have done but there was still a failure by the Council to ensure that the child was provided with suitable education as soon as he was excluded.

The Council was initially reluctant to admit fault but once it reviewed the chronology it readily agreed to pay compensation. It had already reviewed its procedures to ensure that children who are not in education are monitored and dealt with quickly. Your Council agreed to pay £5,000 to the child's father on the understanding that it would be used for the educational benefit of the child. A further payment was also made as a contribution towards legal fees.

Housing

I made 19 decisions this year about housing and just under half were local settlements. In four cases I found there was no or insufficient evidence of fault and the remaining complaints were either outside my jurisdiction or I decided to exercise discretion to not pursue them.

Homelessness

I decided three complaints about homelessness, one of which was a local settlement. Your Council agreed to pay compensation of £1,000 after it was agreed there had been a failure to follow the policy for people fleeing violence. The complainant had been advised by the police to leave his home after having a gun put to his head. According to the policy he should have immediately been offered temporary accommodation. Instead he was told he could only be helped by the rent deposit scheme and he then spent two nights sleeping in his car. Your Council readily agreed it had been at fault and offered the compensation.

Housing repairs

There were five local settlements following complaints about disrepair.

One complaint was settled on the basis that your Council agreed to install a controlled door entry system. In another, a works order was cancelled even though it had been agreed as part of the Council's complaints process that the work would be done. The work included damage caused to a fence by a previous tenant and problems associated with damp and redecorating. As part of the settlement the works order was reinstated and the complainant was offered compensation of £275.

In a complaint about leaks to the kitchen from the bathroom I decided that a suitable remedy would be for the Council to carry out repairs in the bathroom and refurbish the kitchen. The Council had arranged for an inspection in January 2009 but then took no further action. However, the Council thought the leak was caused by how the tenant used the bathroom as opposed to any structural fault in the bathroom. Although there has been some delay by the Council in taking further action I decided that the agreement to do the work was a sufficient remedy and I did not think it was necessary to ask for compensation.

You agreed to pay £100 to someone who had complained about delays in dealing with vermin. I found that the vermin problem had been dealt with appropriately but there had been delays in repairing the kitchen floor. The work was completed whilst I was investigating the complaint but I am not sure it would have been done if the complaint to us had not been lodged.

The final local settlement involved a leaseholder who had complained about delays in carrying out repairs to the fabric of the building; these were the Council's responsibility as the freeholder. As part of your complaints procedure you had already found that there had been delay and paid compensation of £2,100; you also said the repairs would be completed by the end of November. However, the repairs were not completed until February 2010 so I asked you to pay another £120.

I decided not to investigate another complaint because, by the time I received it, the repairs had been completed and compensation paid; so, there did not appear to be any outstanding injustice to the complainant. But, I was concerned by the lack of record keeping, an apparent failure to know what repairs had been done and a history of missed or unscheduled appointments. After I had raised these issues you reviewed a number of procedures and confirmed that you had introduced a number of improvements including a monitoring system and a comprehensive action plan to rectify the weaknesses within the system.

Housing allocations

A complainant was placed in private accommodation by your Council after she was forced to flee domestic violence; the complainant was profoundly deaf and suffered from depression. She was told the property had been found as a result of the Council working in partnership with the private sector. Due to her disabilities she required some adaptations, specifically a flashing door bell, and smoke alarm. The private landlord refused to install the equipment and there was a failure by the Council to take action to ensure the woman's needs were met. Following my investigation your Council agreed to pay £900 for the distress that had been caused and to consider if it could do the work and then charge the private landlord. You also agreed to carry out a review into joint working processes between social care and housing.

Benefits

There were six decisions on complaints about housing benefit but half of them were outside my jurisdiction because the complainant had a right of appeal to a tribunal. But I did decide three complaints as local settlements.

Two complaints about housing benefit involved landlords, who in certain circumstances may be entitled to receive payments of housing benefit in respect of their tenants. In one case there had been a failure to pay a landlord benefit and your Council had already agreed to pay compensation but I asked you to pay a further £250 in recognition of the time and trouble the landlord had been caused. In the other complaint the Council had promised to pay the housing benefit to the landlord but had then failed to do so. Following my enquiries your Council agreed to pay the complainant £1,108 which represented payments he would have received if the benefit had been paid direct.

Complaints about backdating of council tax benefit are usually outside my jurisdiction because it is a matter for an Appeals Tribunal to determine. But I can consider complaints about the way the process is administered. In the third local settlement there had been a three month delay by the Council in passing a request for an appeal to the Tribunal; your Council recognised there had been a delay and offered £30 in respect of the time the complainant had spent trying to resolve matters.

Local taxation and other public finance

One complaint about council tax was decided as a local settlement. In that complaint I found that your Council's policy on the collection of council tax arrears was too rigid and, in places, unclear. It was not clear to what extent officers could exercise discretion in agreeing a payment plan. As a result of these failings I found that the complainant had been given contradictory information and had lost out on an opportunity to negotiate a lower rate of repayment. Your Council agreed to review the wording to make it clear that officers did have discretion; the complainant was also paid £75 in compensation.

Planning and building control

I made seven decisions about planning, only one of which was a local settlement. In three of the complaints I decided to exercise discretion and not pursue an investigation. As an example of one such case, I did think there had been a delay by the Council in taking enforcement action to ensure that a site was cleared and made safe. But, since the site did not affect the complainant I decided no injustice had been caused which is why I decided not to pursue an investigation.

In the local settlement, your Council had refused prior approval for a telecom mast and, being aware of this refusal, the complainant spent a lot of money refurbishing a nearby property. But, the application for the mast had been wrongly date stamped on arrival in the Council office and, as a result, the refusal of permission was invalid. The Council became aware of the problem in August 2006, and was aware that the applicant intended to erect the mast, but it did not tell residents anything about the mistake (or the possibility that the mast might be installed) until April 2007. The complainant started refurbishment work in December 2006 and complained that he would not have proceeded with the work if he had known about the mast. The complainant held strong views about the possible effects of masts on health, and he felt he could not move his family into the property. The Council paid compensation of £250, although the complainant wanted a lot more.

Transport and highways

I decided three complaints within this category as local settlements, all in relation to parking. In one case, an unpaid parking ticket had been referred to bailiffs even though evidence had been submitted that at the time of the offence the car did not belong to the complainant. The Council agreed it overlooked the evidence from DVLA and it had failed to correspond effectively with the Citizens Advice Bureau who had been trying to resolve the problem. Your Council agreed to refund the money that had been paid to the bailiffs and agreed to pay compensation of £150. I also highlighted the importance of dealing appropriately with letters from advice agencies.

In another case your Council agreed to refund the £250 that had been paid to recover a car that

had been towed away; your Council had accepted the complainant's argument that the bay markings were unclear. But, there was a delay in refunding the money and a failure to answer the letter of complaint. The complaint was settled on the basis that you paid compensation of £50.

In the third case the complainant had been forced to pay £723 to bailiffs for a parking fine which he said he knew nothing about. Your Council refused to accept his argument and argued that a letter that had been scanned into the system, and which was referred to in court documents, was his acknowledgement of the parking fine. This letter was not an acknowledgement of the debt but it appears it was then repeatedly treated as such. I was also concerned that the bailiff company may have been using 'porters' who were not certificated bailiffs. Your Council agreed to cancel the parking fine and refund all of the bailiff and court costs; you also agreed to ask the bailiff firm to look at its arrangements and its use of 'porters'.

Other

Within this category there were four local settlements.

Two concerned complaints about anti-social behaviour. In one, there had been a failure to properly investigate complaints of nuisance that had been occurring since 2006; this included an allegation of actual physical assault. There was evidence of poor performance by officers, a failure to implement the findings of the initial complaint, and a general failure to investigate the allegations. You agreed to pay the complainant £520 and to introduce a quality compliance check list to ensure that reports of nuisance are properly investigated.

The other case was less serious, involving a delay in ensuring that a neighbour cleared up their garden; you agreed to pay £75 because the time and trouble the complainant had been caused could have been avoided.

There were two settlements in relation to waste management. One complainant had repeatedly complained about the poor standard of street cleaning in the area around her home. Your Council was already taking steps to try to address the problems but agreed to pay £50 in compensation. I felt the action being taken was reasonable and it was difficult to see what more you could do.

The second complaint concerned a repeated failure by the contractor to ensure that a disabled woman received the assisted waste collection service that had been agreed. You agreed to pay £100 and monitor the service for a month.

Liaison with the Local Government Ombudsman

During the year I made written enquiries on 45 complaints and the average time taken by the Council to respond was 21.1 days. This is well within the 28 days timescale which we ask councils to meet and I am grateful for this excellent performance.

I note that a member of your staff attended seminars we held in July 2009 and March this year on the new adult care complaints procedures and I hope he found it useful and informative.

Training in complaint handling

In previous years we have provided training in Good/Effective Complaint handling to staff from your authority. We have extended the range of courses available and 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	1	0	17	3	6	3	3	6	41
Advice given	0	3	0	2	2	1	1	3	5	17
Forwarded to investigative team (resubmitted prematures)	2	2	0	2	2	3	4	1	2	18
Forwarded to investigative team (new)	2	4	6	22	7	2	5	11	17	76
Total	6	10	6	43	14	12	13	18	30	152

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	23	0	0	21	28	9	82

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	45	21.1
2008 / 2009	46	20.4
2007 / 2008	43	21.3

Average local authority resp times 01/04/2009 to 31/03/2010

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