

**The Local Government Ombudsman's
Annual Review
Worthing 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 Worthing Borough Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Worthing 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

A total of 16 enquiries and complaints was received about your Council in 2009/10. Eight of these were about planning and building control. Ten contacts were forwarded to the investigative team, of which five were about planning and building control. Of the 16 contacts, three were premature and were sent straight to the Council to put through its own procedure. This compares to seven premature complaints in 2008/09. Three premature complaints were re-submitted to the Ombudsman in each of the two years.

Complaint outcomes

I made 12 decisions. In six of these cases there was no or insufficient evidence of fault by 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. I asked your Council to settle two complaints this year; 16.6% of the complaints decided that were within jurisdiction.

One of these concerned parking. The complainant was involved in two separate incidents with traffic wardens and complained about both. On the second occasion he was reported to the police for threatening the warden, and also made counter-allegations. The police were unable to uphold either his or the warden's allegation due to lack of evidence. The complainant told my investigator that the Council had failed to put his second complaint through all stages of the complaints procedure, and further complained that the Council had unreasonably declared him vexatious.

My investigator found that the Council had interviewed the two wardens after the incidents took place and he had been sent letters at stages 1, 2 and 3 of the complaints process. But, the stage 3 letter did not make clear that it was about both incidents. There was also an element of inconsistency because the Council had told the complainant that the second incident would be considered once the police had concluded their investigation. The Council agreed to send the complainant a letter detailing the outcome of his complaint about the second incident. The Council

also agreed to review its complaint policy to include a section on dealing with vexatious complainants and to include in this an internal review mechanism to enable a complainant to challenge the decision to declare him or her vexatious. I did not ask for a financial remedy in this case.

The second local settlement involved delay in implementing a settlement already agreed almost a year before in relation to a planning application. In this case the Council had agreed to erect a fence at the rear of the complainant's garden to diminish the effect of floodlighting installed around tennis courts. The original fault concerned the Council's consideration of plans that were not wholly accurate. The Council built the fence, apologised and provided a written explanation of its delay. It also agreed to pay the complainant £40 for being put to the time and trouble of having to pursue matters further. The Council had very creditably been proactive in settling the original complaint. But, it then allowed matters to drift. I was disappointed that it took two months and some effort by my investigator before it responded to our enquiries about delay.

Ombudsman's discretion

Sometimes, though the Council may be at fault, I use my discretion not to pursue the investigation often because any fault did not result in any injustice to the complainant. But there may still be lessons for the Council to draw from such cases. This year I closed four cases using my discretion.

One of these cases concerned the pruning by the Council of trees and bushes it owned which bordered the complainant's garden. The Council had informally consulted a few of the complainant's neighbours before carrying out the pruning work, but failed to consult the complainant, even though they worked at home and were available for comment. Prior to my involvement the Council had already acknowledged its failure to consult the complainant and apologised. But, it did not consider compensation appropriate as it was not obliged to consult at all before carrying out the work. I did not consider there was sufficient evidence of fault by the Council to pursue the matter any further.

Liaison with the Local Government Ombudsman

The Council took an average of 23 days to respond to our written enquiries during 2009/10. This is well within the 28 day target we set for councils to respond to first enquiries and compares favourably with the 24.5 days it took in 2007/08. I am also pleased to note that this response time is a considerable improvement on the 33 days taken in 2008/09 and which I asked the Council to consider reviewing in my annual review last year.

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.

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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	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	0	0	2	0	1	3
Advice given	0	1	0	1	1	0	3
Forwarded to investigative team (resubmitted prematures)	0	0	0	2	0	1	3
Forwarded to investigative team (new)	2	0	1	3	1	0	7
Total	2	1	1	8	2	2	16

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	2	0	0	6	4	0	12

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	8	23.0
2008 / 2009	3	33.0
2007 / 2008	8	24.5

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