

24 June 2011

*By email*

Mr G Curran  
Chief Executive  
London Borough of Merton

Dear Mr Curran

### **Annual Review Letter 2010/2011**

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ending 31 March 2011. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number that the Advice Team forwarded to my office and decisions made on complaints about your council. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your authority to respond to written enquiries and the average response times by type of authority.

### **Complaints received 2010/11**

In 2010/11 I received a total of 75 enquiries and contacts relating to the council. Of these, 30 were referred for investigation. In the remainder of cases we referred the complaint back to the council to deal with as premature or gave advice to the complainant.

This year we made formal enquiries on 19 complaints. The council's average response time was 28.1 days. This is in line with the target of 28 days and I would like to congratulate the council for the further improvement in its performance over recent years. I note that the responses to complaints regarding Education and Children's Services (25.7 days) and Planning (22.3 days) were particularly good. I look forward to the council maintaining the improvement for 2011/12.

### **Complaint Outcomes**

We decided 35 complaints during the year. Of those 35 decisions, 10 were considered to be outside my jurisdiction to investigate. In 11 cases I found no evidence of maladministration and in another six cases discretion was used to discontinue investigation for other reasons; for example where there may have been some fault by the council but insufficient injustice was caused to the complainant.

Of the eight remaining cases, seven were resolved by local settlements and I issued one report. I have commented on some of these cases below.

The report I issued this year related to a project to sell land to a developer for use as a community facility. I concluded there were significant periods of inactivity by the council in dealing with the matter. I considered that officers could have made more efforts to progress the sale of the land. During the period the council was dealing with the issue, there has been an increase in the costs of the project. I concluded that the residents association suffered injustice because they will never know for certain whether greater efforts by the council to accelerate the sale process would have meant that the developer would have started work on the project before the project funding problems became apparent. To put things right, I recommended that the council made a payment of £1,500 to the residents association to compensate for the ongoing uncertainty, the resident association's justifiable sense of outrage and as a contribution to loss of amenity and time and trouble in pursuing the complaint. I understand that the Cabinet will discuss the findings within my report shortly.

Three settlements related to housing functions. In one case, the council agreed to review the complainant's housing priority again, taking into account additional medical evidence, and its contractor agreed to pay compensation of £160 to reflect delays in remedying repairs. In another housing repairs case the council failed to deal properly with allegations that a tenant's behaviour was unreasonable and failed to escalate his complaint to stage two of the complaints process. The council agreed to review its decision, taking account of the complainant's view of the events.

One settlement related to Special Educational Need (SEN) provision. The council failed to promptly pay school fees required by a Tribunal and the process it followed when amending an SEN statement was flawed and unfair as it; failed to take account of professional advice and reports in its possession; failed to seek the views of the child or his parents and failed to keep proper records or inform the child's parents of the outcome. The council reviewed its Special Educational Needs process and after I prepared a draft report, the council agreed to pay £250 as compensation for the injustice caused.

In one case involving benefit claims the council failed to treat a claimant's concerns about her entitlement to benefits as an appeal when it clearly was. After re-assessing the claim the council discovered that she had been underpaid benefits. The council paid the claimant the unpaid benefits and £150 to reflect the delay and the errors it had made.

### ***Communicating decisions***

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. My next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further

transparency to our work.

### ***Extended powers***

During 2010/11 our powers were extended to deal with complaints in two significant areas.

In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. The increasing number of people who arrange and pay for their own social care now have the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 75 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

Our new powers coincided with the introduction of Treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

### ***Assisting councils to improve***

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. During 2010/11 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.

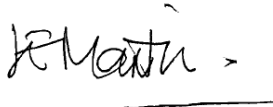
These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

Details of training opportunities are on our web site at [www.lgo.org.uk/training-councils/](http://www.lgo.org.uk/training-councils/)

More details of our work over the year will be included in the 2010/11 Annual Report. This will be published on our website at the same time as the annual review letters for all councils (14 July).

If it would be helpful to your council I should be pleased to arrange for me or a senior manager to meet and explain our work in greater detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Martin', with a horizontal line underneath.

Dr Jane Martin  
Local Government Ombudsman

For further information on interpretation of statistics click on this link to go to [www.lgo.org.uk/CouncilsPerformance](http://www.lgo.org.uk/CouncilsPerformance)

## LGO Advice Team

<b>Enquiries and complaints received</b>	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Other	Planning & Development	Total
Formal/informal premature complaints	2	13	0	0	1	6	5	0	4	31
Advice given	2	3	0	3	3	0	2	0	1	14
Forwarded in investigative team (resubmitted)	0	2	1	0	1	0	1	0	4	9
Forwarded to investigative team (new)	2	5	0	6	0	4	0	1	3	21
<b>Total</b>	<b>6</b>	<b>23</b>	<b>1</b>	<b>9</b>	<b>5</b>	<b>10</b>	<b>8</b>	<b>1</b>	<b>12</b>	<b>75</b>

## Investigative Team

<b>Decisions</b>	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
<b>2010 / 2011</b>	<b>1</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>6</b>	<b>10</b>	<b>35</b>

## Adult social care decisions made from 1 Oct 2010\*

	To discontinue investigation, other	Total
2010 - 2011	1	1

\*These decisions are not included in the main decisions table above. They use the new decision reasons from 1/10/10.

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	19	28.1
2009 / 2010	16	38.9
2008 / 2009	14	42.4

## Provisional comparative response times 01/04/2010 to 31/03/20 11

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	65	23	12
Unitary authorities	59	28	13
Metropolitan authorities	64	19	17
County councils	66	17	17
London boroughs	64	30	6
National parks authorities	75	25	0

Response times adult social care 1/10/10 - 31/3/11	First enquiries	
	No of first Enquiries	Avg no of days to respond
2010/2011	1	16.0