



The Commission for
Local Administration in England

**The Local Government Ombudsman's
Annual Letter
Torbay Council
for the year ended
31 March 2007**

The Local Government Ombudsman (LGO) investigates complaints by members of the public who consider that they have been caused injustice through administrative fault by local authorities and certain other bodies. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual letters.

Annual Letter 2006/07 - Introduction

The aim of the annual letter is to provide a summary of information on the complaints about your authority that we have received and try to draw any lessons learned about the authority's performance and complaint-handling arrangements. These might then be fed back into service improvement.

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

There are two attachments which form an integral part of this letter: statistical data covering a three year period and a note to help the interpretation of the statistics.

Complaints received

Volume

We received 45 complaints during the year, a significant increase over the 33 received last year. Nevertheless it is fewer than the 63 complaints received during the year previous to that, and we expect to see these fluctuations year on year.

Character

As in previous years, the largest number of complaints, 13 of the 45, were about planning and building control matters. Six were about adult care services, and five about children and family services. Seven were about transport and highways, five were about housing, two each about education and public finance. No complaints were received about benefits, a commendable situation given the nature of the Council's area. Of the six other complaints, three were about commercial matters, one about an employment matter, one about environmental health and one about leisure and culture.

Decisions on complaints

Reports and local settlements

We use the term 'local settlement' to describe the outcome of a complaint where, during the course of our investigation, the Council takes, or agrees to take, some action which we consider is a satisfactory response to the complaint and the investigation does not need to be completed. These form a significant proportion of the complaints we determine. Five complaints were settled locally.

I considered one complaint from a resident submitted on behalf of her son and daughter-in-law who complained about the Council's handling of their application for assistance when they became homeless. In particular the Council failed to issue a formal determination of its decision, depriving the applicant of the right to appeal. On receipt of the complaint my investigating officer was contacted by a senior officer who immediately recognised that there had been shortcomings in the manner in which this case had been handled. He visited the complainant to express his regret at what had happened, and the applicants were given assistance to access suitable (housing association) accommodation. The Council undertook to review procedures and identified training needs arising out of the complaint, and agreed to pay compensation of £500. The Council's response, particularly the personal involvement of a senior member of staff, was excellent here.

Two residents complained that the Council had failed to deal with an application for modification to the Definitive Map of footpaths. The Council acknowledged that it had been responsible for some confusion. It first denied that the application had been received, but later said it had. The Council apologised and undertook to deal with the submitted application as soon as possible, and I considered this a reasonable response to the complaint.

I considered one complaint from a resident about overcharging in a nursing home. The overcharging arose when the complainant was not advised that the fee structure had changed. In addition, the complainant's mother's needs had been reassessed without the complainant (her son) being present. The Council found that the level of need had increased, and fees were increased to take account of this, but without drawing up a care plan to identify these increased needs or specifying how they would be met. I found that the Council had overcharged the complainant's mother for nursing home fees for a year. The amount overcharged came to £1784. The Council agreed to reimburse this money and to pay a further £150 in recognition of the time and trouble to which the complainant had been put. I also found that there had been a 10-month delay in investigating the complaint at stage 2 of the procedures, with no explanation for that delay. I agreed a further £200 compensation for the shortcomings in the complaints procedure. This complaint revealed serious shortcomings in the Council's social services complaint-handling processes. The Council failed to supply me promptly with the information I needed to deal with the complaints. It took about six months before all the information I required was submitted, and there was a further delay before the Council agreed to my proposed settlement. This was an exceptional case, and I refer later to the Council's general performance in response to my enquiries.

All of the Council's complaints about Adult Services are dealt with on the Council's behalf by the Torbay Health Trust. The Health Trust must ensure that the Social Services Statutory Complaints Procedure is fully embraced to avoid any repeat of such an unacceptable response to a complaint. It is for the Council to monitor complaints about Adult Services to ensure this happens, and to make other arrangements if it does not.

A further complaint was about the delay in carrying out a reassessment of the complainant's child's special needs. The complainant had already been through the three stages of the statutory complaints procedure, after which it had been agreed that her daughter's special needs would be reassessed. Despite this, the assessment was not carried out and so the complainant had to complain to me. The Council agreed to pay £500 for the delay in carrying out the reassessment and ensured it was completed. The Council revised its procedures and it produced a new leaflet for parents explaining the process in order to make the system more transparent.

When we complete an investigation we must issue a report. I issued one report against the Council during the year. It concerned two complaints from residents at a caravan park about delay in taking enforcement action against the site owners for their failure to comply with conditions in their site licences. Residents had to live on their caravan site in conditions that had fallen seriously below the expected standards. I upheld their complaints about the delay and criticised the Council's failure to take enforcement action especially on the most serious breaches of the site licence conditions over a period of 15 months. These were in relation to the poor state of the access roads, failure to inspect electrical installations and disrepair of the sewage treatment plant.

The Council agreed to make a payment of £2,500 to each of the two Residents' Associations on the site to remedy the injustice to residents living permanently on the sites between January 2004 and April 2005.

Overall, a total of £8,134 was paid in compensation. I very much welcome the Council's willingness to put things right when mistakes have been made.

Other findings

Forty-eight complaints were decided during the year. Of these, seven were outside my jurisdiction. Three had not been made within 12 months of the matters complained of, two had associated rights of appeal, one was an employment matter and one was a complaint which affected all or most of the residents of the area. As I mentioned earlier, five were settled locally and two were the subject of an issued report. Sixteen complaints were premature. The remaining 18 were not pursued because no evidence of maladministration was seen or because it was decided for other reasons not to pursue them.

Your Council's complaints procedure and handling of complaints

Sixteen complaints were premature. At 35% this figure is slightly higher than the average, and the Council may wish to consider how its complaints process is publicised. It is particularly important that Council staff signpost the complaints process when dealing with customers who are unhappy with the way the Council handled an issue. Having said that, I note that the complaints process is clear and readily available on the website. Complaints can be made online, a facility welcomed generally by residents. Of the 16 premature complaints I referred to earlier, seven had been resubmitted by the end of the year. I found no evidence of maladministration in four of these, one was outside my jurisdiction, one was settled locally and one has yet to be determined.

Training in complaint handling

As part of our role to provide advice in good administrative practice, we offer training courses for all levels of local authority staff in complaints handling and investigation. The feedback from courses that have been delivered over the past two and a half years is very positive.

The range of courses is expanding in response to demand and, in addition to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), we now offer these courses specifically for social services staff. We have also successfully piloted a course on reviewing complaints for social services review panel members. We can run open courses for groups of staff from smaller authorities and also customise courses to meet your Council's specific requirements.

All courses are presented by an experienced investigator so participants benefit from their knowledge and expertise of complaint handling.

I have enclosed some information on the full range of courses available together with contact details for enquiries and any further bookings.

Liaison with the Local Government Ombudsman

We made enquiries on eight complaints this year, and the average time for responding was 21 days. This is well within the target we set of 28 days. I appreciate the amount of effort officers have put in to achieve this and the Council is to be congratulated on its achievement here, a major step forward compared to last year.

I was pleased to welcome your link officer to the seminar I held in Coventry in November. I hope she found the seminar useful.

Stephen Purser, the Assistant Ombudsman presented a seminar on how we investigate complaints to you and other managers in September. I hope this was helpful. I understand that the Council would like him to deliver a similar seminar to staff involved in preparing responses to my enquiry letters and I can confirm that we would be very happy to arrange this.

LGO developments

I thought it would be helpful to update you on a project we are implementing to improve the first contact that people have with us as part of our customer focus initiative. We are developing a new Access and Advice Service that will provide a gateway to our services for all complainants and enquirers. It will be mainly telephone-based but will also deal with email, text and letter correspondence. As the project progresses we will keep you informed about developments and expected timescales.

Changes brought about by the Local Government Bill are also expected to impact on the way that we work and again we will keep you informed as relevant.

We have just issued a special report that draws on our experience of dealing with complaints about planning applications for phone masts considered under the prior approval system, which can be highly controversial. We recommend simple measures that councils can adopt to minimise the problems that can occur.

A further special report will be published in July focusing on the difficulties that can be encountered when complaints are received by local authorities about services delivered through a partnership. *Local partnerships and citizen redress* sets out our advice and guidance on how these problems can be overcome by adopting good governance arrangements that include an effective complaints protocol.

Conclusions and general observations

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 Council's services.

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June 2007

Enc: Statistical data
Note on interpretation of statistics
Leaflet on training courses (with posted copy only)

Complaints received by subject area	Adult care services	Benefits	Children and family services	Education	Housing	Other	Planning & building control	Public finance	Social Services - other	Transport and highways	Total
01/04/2006 - 31/03/2007	6	0	5	2	5	5	13	2	0	7	45
2005 / 2006	6	3	1	1	0	5	11	1	1	4	33
2004 / 2005	2	1	1	6	5	14	22	2	1	9	63

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2006 - 31/03/2007	2	5	0	0	12	6	7	16	32	48
2005 / 2006	1	4	0	0	9	10	3	10	27	37
2004 / 2005	0	6	0	0	15	6	15	18	42	60

See attached notes for an explanation of the headings in this table.

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2006 - 31/03/2007	8	21.3
2005 / 2006	19	43.5
2004 / 2005	19	36.9

Average local authority response times 01/04/2006 to 31/03/2007

Types of authority	<= 28 days %	29 - 35 days %	>= 36 days %
District Councils	48.9	23.4	27.7
Unitary Authorities	30.4	37.0	32.6
Metropolitan Authorities	38.9	41.7	19.4
County Councils	47.1	32.3	20.6
London Boroughs	39.4	33.3	27.3
National Park Authorities	66.7	33.3	0.0