

**The Local Government Ombudsman's
Annual Letter
Birmingham City Council
for the year ended
31 March 2008**

The Local Government Ombudsman (LGO) provides 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, the Ombudsmen aim to get it put right by recommending a suitable remedy. 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 2007/08 - Introduction

This annual letter provides a summary of the complaints received about Birmingham City Council and comments on the authority's performance and complaint-handling arrangements.

I hope that the letter will assist you in improving services by providing a useful perspective on how some people who are dissatisfied experience or perceive your services.

Two attachments 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

In 2007/08 we received 476 complaints about your council, almost the same number as the previous year (467). Looking at the broad categories of complaint, there are no significant changes in comparison to the patterns seen in 2006/07, with small increases in complaints about benefits, planning and building control and public finance and small reductions in those about adult care services and other. There were also no significant changes in the types of complaint within each category, though I note there was a continuation of the reduction in homelessness complaints from 19 in 2006/07 to 13 in 2007/08 and that the number of anti-social behaviour complaints in the other category reduced from 39 in 2006/07 to 21 in 2007/08, similar to the number (16) recorded in 2005/06.

Liaison with the Local Government Ombudsman

The average time it took your council to respond to written enquiries reduced to 36.5 days in 2007/08 from 40.8 days in 2006/07. During this period the number of enquiries made increased from 175 to 233. It is encouraging to see a reduction in the average time taken, although it is still well over the 28 day target that we ask councils to respond within.

Looking at the time it takes to respond by type of complaint, adult care services average 45.3 days, with only 2 out of 8 complaints receiving a response within 28 days. Benefits average 47.3 days, with 6 of the 28 complaints taking 60 or more days to respond to. Housing complaints averaged 36.9 days and children and family services complaints took 35 days, though this figure is skewed by one complaint which it took the council 89 days to respond to. Other complaints took 39.5 days and planning and building control complaints 32.3 days.

The areas where responses were returned most quickly and within the 28 day target were public finance (20.4 days), education (26 days) and transport and highways (27.5 days). The latter shows a significant improvement over the previous year (55.4 days).

Overall the initial enquiries on 75 complaints (32%) were responded to in 28 days or less, an improvement on the previous year, when the figure was 24%. It may be that as we increasingly request straightforward information informally, those complaints on which we make formal enquiries are those which are most complex and difficult to respond to. However under one-third of enquiries receiving a response within 28 days is still a disappointing figure and one which reduces the quality of the service we are able to offer to complainants.

Although there continue to be delays in responding to written enquiries, my investigators have also commented on the helpfulness of your staff, both in terms of responding to informal enquiries and in being willing to remedy complaints when it is clear that there have been errors by the Council.

Given the nature and number of complaints received from your Council, I have decided to pilot having a small team of staff to deal solely with those complaints. The team had a useful visit to your council at the beginning of April to discuss how these new arrangements will work and how we can improve the way our two organisations interact. I am pleased that the Council has responded positively to this initiative and I look forward to seeing the benefits for complainants and how we deal with complaints over the next year.

Decisions on complaints

Reports and local settlements

We will often discontinue enquires into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. In 2007/08 the Local Government Ombudsmen determined 27% of complaints by local settlement (excluding ‘premature’ complaints - where councils have not had a proper chance to deal with them - and those outside our jurisdiction). If an investigation is completed I issue a public report.

I issued two reports about your Council in 2007/08.

One report concerned a vulnerable young woman who is deaf and has learning difficulties. She has been in the Council’s care since she was a young baby and has spent much of that time placed outside the area. I found the Council acted with maladministration in:

- failing for eight years after she became an adult to assess and review her needs and only acting when forced to do so by an Adult Protection investigation;
- placing her with people who were only approved as foster carers for children and who resisted registering as a small home for adults;
- multiple failures to respond to concerns that her placement was inappropriate and damaging;
- delay in providing funding for an advocate and alternative placement;
- delay in responding to the Review Panel findings and disregard for those findings;
- failures in the review of her new placement.

In addition to a monetary remedy for Miss D and a payment to her foster sister to reflect her time and trouble in pursuing the complaint, I recommended that the Council should commission and publicly report the findings of an independent audit of a representative sample of adults with learning disabilities to establish whether proper arrangements are now in place. I also liaised with the Commission for Social Care Inspection to ensure it was aware of the concerns raised in the report.

The second report found that the Council, directly and through its contractors, had given misleading information about its legal obligations for redecoration and compensation for damage caused by repair works to a property it owned. The Council failed to deal promptly and properly with the tenant’s claim. It acted on legal advice that was based on insufficient and incorrect information and that changed when the Commission’s investigator presented photographic evidence of the damage.

The Council compensated the tenant and agreed to review the wording of its tenancy agreement. I also recommended that it should:

- provide clear and well publicised explanations of its obligations to pay for redecoration following repairs, how tenants can claim compensation and guidelines on how compensation for such redecoration will be calculated;
- brief and periodically remind all relevant Council, contractors' and sub-contractors' staff (including those who carry out such repair works) of these obligations;
- introduce procedures for the proper investigation and determination of such claims that require decision makers either to have visited the site or seen photographic evidence;
- inform all its Tenants' Associations of the findings and recommendations of this report.

The proportion of local settlements to all complaints decided (excluding those which were premature and outside jurisdiction) was 41%. This is a slight fall on the previous two years, which were 46.5% and 46% of decisions respectively.

There were 4 local settlements of adult care complaints and a further 12 settlements of children's services complaints. One adult care complaint involved a failure to make direct payments to a disabled adult, having assessed her as needing them. As a result she also missed out on Independent Living Fund payments. The Council paid a total of £24,470 to reimburse for the missed payments and reflect the distress, time and trouble the complainant had been to in obtaining the money to which she was entitled.

There were 6 settlements of anti-social behaviour complaints, compared to 2 last year, and in each case the Council had delayed in taking action. These complaints resulted in payments of £2,100.

There were 5 council tax benefit and 24 housing benefit local settlements. One council tax benefit complaint found that the Council had failed to forward two appeals against recovery of overpaid benefit to the Independent Appeals Service. There were failures to advise people of their rights of appeal and to explain clearly how decisions, particularly on complex claims, had been reached. The Council agreed to make payments of just over £5,000, mainly for delay in dealing appropriately with claims or appeals, and also processed the claims accurately and paid any outstanding benefits. Thirteen local taxation complaints led to local settlements, resulting in payments of just over £1,000. One complaint highlighted shortcomings in how information was passed between the benefits and council tax teams. My investigators have noted that the Council is quick to acknowledge errors when they have occurred on benefit and council tax issues and act to put matters right.

There were 6 settlements of homelessness complaints, leading to payments of £5,300 and reimbursement of rent paid for an uninhabitable property. Two complainants were offered the next available suitable property as they had missed out on offers due to errors by the Council.

Eleven housing allocations complaints led to local settlements, including 5 offers of satisfactory housing, approving a direct exchange which had previously been rejected and payments of nearly £3,000. There were 28 settlements of housing repair complaints, most of which involved delay or failure to undertake repairs. In 4 cases this failure had resulted in damage to tenants' personal possessions. The 12 remaining housing complaints which were settled resulted in payments of £7,750. Of these, one complaint about how the Council had charged for storing the belongings of a family which was made homeless resulted in a remedy of £4,000. Another complaint related to delays in making a referral for an occupational therapy assessment and further delays in passing the resulting recommendation to a housing association. This meant the complainant suffered significant delay in getting adequate washing facilities and resulted in a payment of £1,500.

There were 6 settlements of education complaints, including 2 for special educational needs complaints, one of which resulted in a payment of £750 for failing to provide interim education for a child with Special Educational Needs. One education admissions appeal complaint resulted in a new appeal hearing being offered.

The remaining complaints were spread across the complaint categories and did not raise any broader concerns.

Your Council's complaints procedure and handling of complaints

My office made 523 decisions on complaints about your council during 2007/08. Of these, just over one quarter (26%) were complaints that the Council not had yet had a reasonable opportunity to respond to (known as premature complaints). Eighty of the decisions made (15%) were on resubmitted premature complaints and 31 of these ended in a local settlement (39%), above the national figure of 21.4% and a similar figure to the previous year. These complaints were concentrated in the categories of housing benefit and housing. The figures suggest that the Council may be able to make improvements to the way that it responds to complaints, particularly in these two service areas. I am aware there have been recent initiatives, particularly in benefits, which should improve complaint handling in the future.

One complaint dealt with during the year highlighted the need to ensure that officers adopt a "corporate" response to complaints and do not expect people to contact different departments themselves when an issue is the responsibility of more than one part of the Council.

Twelve complaints highlighted failures to investigate complaints or to progress them through the Social Services Complaints Procedure. We found problems with the Council not investigating complaints, delay during the complaint process and failures by the Council to respond to the findings of the independent report (stage 2) or the Review Panel (stage 3).

Training in complaint handling

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. A detailed evaluation of the training provided to councils over the past three years shows very high levels of satisfaction.

The range of courses is expanding in response to demand. In addition to Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution) we now offer these courses specifically for social services staff and a course on reviewing complaints for social care review panel members. We will customise courses to meet your Council's specific requirements and provide courses for groups of staff from different smaller authorities.

Participants benefit from the complaint-handling knowledge and expertise of the experienced investigators who present the courses.

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

LGO developments

We launched the LGO Advice Team in April, providing a first contact service for all enquirers and new complainants. Demand for the service has been high. Our team of advisers, trained to provide comprehensive information and advice, has dealt with many thousands of calls since the service started.

The team handles complaints submitted by telephone, email or text, as well as in writing. This new power to accept complaints other than in writing was one of the provisions of the Local Government and Public Involvement in Health Act, which also came into force in April. Our experience of implementing other provisions in the Act, such as complaints about service failure and apparent maladministration, is being kept under review and will be subject to further discussion. Any feedback

from your Council would be welcome.

Last year we published two special reports providing advice and guidance on 'applications for prior approval of telecommunications masts' and 'citizen redress in local partnerships'. Feedback on special reports is always welcome. I would particularly appreciate information on complaints protocols in the governance arrangements of partnerships with which your Council is involved.

Conclusions and general observations

I welcome this opportunity to comment on our experience of complaints about the Council 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 2008

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
01/04/2007 - 31/03/2008	17	61	31	24	182	66	48	30	0	17	476
2006 / 2007	22	55	32	25	178	87	38	18	0	12	467
2005 / 2006	26	40	26	27	158	43	41	11	4	19	395

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
01/04/2007 - 31/03/2008	2	136	0	0	112	82	54	137	386	523
2006 / 2007	2	93	0	0	58	47	31	153	231	384
2005 / 2006	4	91	0	0	71	32	31	156	229	385

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
01/04/2007 - 31/03/2008	233	36.5
2006 / 2007	175	40.8
2005 / 2006	155	37.2

Average local authority response times 01/04/2007 to 31/03/2008

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	56.4	24.6	19.1
Unitary Authorities	41.3	50.0	8.7
Metropolitan Authorities	58.3	30.6	11.1
County Councils	47.1	38.2	14.7
London Boroughs	45.5	27.3	27.3
National Park Authorities	71.4	28.6	0.0