

Local Government
OMBUDSMAN

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

**Walsall Metropolitan Borough
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 we have received about Walsall Metropolitan 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 letter will be a useful addition to other information your authority holds on how people 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

Volume

We received 63 complaints against your Council during the year, a slight increase on the 58 complaints received in 2006/2007. We expect to see fluctuations like this from year to year.

Character

Twenty one complaints, a third of all those we received against your Council, were about planning and building control.

Small increases were noted in some other subject areas - housing, adult care services and highways. But complaints about the benefits decreased by 80% from ten in 2006/2007 to two this year.

We received a similar number of complaints to previous years in the areas of children and family services, education and public finance.

Two complaints were made about environmental health and one each about antisocial behaviour, access to information, land and waste management. Three complaints were received about miscellaneous matters.

Decisions on complaints

Reports and local settlements

When we complete an investigation we issue a report. I issued no reports against your Council this year.

A 'local settlement' is a complaint where, during the course of our investigation, the Council has agreed to take some action which we consider is a satisfactory response to the complaint. The investigation is then discontinued. In 2007/08 the Local Government Ombudsmen determined some 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).

Nine complaints were settled locally this year, and the Council paid a total of £5,402 in compensation.

In a complaint about adult care services I criticised the Council for the way it dealt with the death of a lady living in local authority care. In that case the Council's lack of procedures for identifying the next of kin meant that inadequate attempts were made to contact the deceased's son. As a result the complainant was unaware of his mother's death until after she had been cremated. I also criticised the Council for delaying the complainant's access to his mother's ashes and for contradictory information he was given by a number of Council officers. In that case the Council admitted that its procedures were not adequate and had already offered the complainant compensation prior to his

complaint to me. I agreed that significant compensation, in addition to the introduction of a new policy for dealing with people who die in local authority care and amendments to the recording of next of kin contacts on social service files, was a suitable outcome.

In another complaint about adult care services the Council agreed to pay the complainant £500 compensation for failing to assess her disability-related expenditure properly. I was particularly concerned that the Council had fettered its discretion when considering some of the costs presented by the complainant given that I had already criticised it for fettering its discretion in the same way on an earlier complaint submitted by the same complainant. I also criticised the Council for restricting the amount allowable for various items of disability-related expenditure when that restriction was not set out in any of its policies. In addition to compensating the complainant, the Council agreed to revise its policy and reassess various aspects of the complainant's disability-related expenditure.

In a complaint about private housing grants I criticised the Council for the way in which it administered an application for a disabled facilities grant. In that case the Council failed to advise the complainant that it was only required to fund grants up to a maximum of £25,000 and that any funding above that would be discretionary. This failure unreasonably raised her expectations and encouraged her to pursue a project which was never likely to receive full funding as the costs were considerably in excess of £25,000. I also criticised the Council for failing to follow its policy, for delay in issuing tender documentation and for failing to keep the complainant up to date with what was happening. In that case the Council agreed to pay £1,000 compensation and to consider whether there were any alternative adaptations which could be funded as part of the mandatory grant scheme. I understand that the Council has now agreed with the complainant that she will arrange for the work to be carried out at a lower cost and the Council will refund the money against invoices. I welcome that approach.

A complaint about regeneration and improvement also concerned that payment of a disabled facilities grant. I criticised the Council for delays in processing the grant application and for failing to keep the complainant informed about why approval of the grant was taking so long. In that case the Council agreed to pay £250 compensation.

The Council will be aware that I intend to issue a report shortly on a disabled facilities grant application because I have concerns about the Council's decision to cancel all grants above the grant maximum without consideration of individual circumstances, a policy which I understand has now been amended.

In a complaint about planning I criticised the Council for delay in dealing with a breach of condition and failure to keep the complainant informed. The delay here meant that almost seven years after the breach of condition was first identified there was still no landscaping on site. The complainant had to live with an unscreened development close to his property for longer than should have been the case. The Council agreed to pay £300 compensation, to draw up a timetable for resolution of the issue and to share that timetable with the complainant.

In a complaint about local taxation the Council delayed in considering a backdating request in respect of council tax benefit. In that case the Council took action and awarded backdated benefit before responding to our enquiries. I welcome that approach.

No specific learning points were raised by the remaining complaints.

Other findings

Thirteen complaints were treated as premature and referred back to your Council so that they could first be considered through your Council's complaints procedure.

In a further 12 cases I took the view that the matters complained of were outside my jurisdiction.

The remaining 20 complaints were not pursued because no evidence of maladministration was seen or because it was decided for other reasons not to pursue them, mainly because no significant

injustice flowed from the fault alleged.

Your Council's complaints procedure and handling of complaints

I am pleased to see that the number of premature complaints made to me has declined from 18 to 13. This suggests that your Council has a robust complaints handling procedure which is easily accessible to residents in the Council's area. This view is supported by the fact that the 13 complaints decided as premature represent 24% of the total number of complaints determined this year. This is less than the national average, of 27%.

Six complaints that had been referred back to the Council as premature were resubmitted to me. Two of these were not pursued because there was no evidence of maladministration, one was outside my jurisdiction, one was closed as a local settlement and two were still under consideration at the end of the year.

Liaison with the Local Government Ombudsman

Enquiries were made on 26 complaints during the year. Your Council's average response time of 45.3 days is a significant deterioration on last year's average of 34.5 days. Only six responses – less than a quarter - were received with the target timescale of 28 days.

In eight cases it took more than 50 days for a response to be received, although that included three linked planning cases where we did not receive a response for 68 days. One adult care services complaint took 99 days before a response was provided, although I recognise that this complaint involved a significant amount of documentation. Another complaint about transport and highways took 85 days for a response to be provided and even then that response did not include all of the supporting documentation. I consider these delays to be unacceptable, particularly in cases where complainants are vulnerable or have an ongoing injustice. I hope that your Council will make a determined effort in the coming year to effect improvements.

The quality of responses has also declined. In relation to the transport and highways complaint mentioned in the previous paragraph, the Council failed to provide documentation to support its response and there have been delays in providing information in response to further enquiries. There have also been delays in another complaint about transport and highways where, although the Council agreed a remedy, it failed to ensure that it was put into effect promptly.

My staff advise me that they are having to spend a considerable amount of time chasing the Council either for first responses or follow-up responses to local settlement proposals. I am sure you can appreciate that complainants are unlikely to be reassured that the Council takes their complaints seriously when there are considerable delays responding to Ombudsman enquiries. I hope that the Council will address this problem in the coming year. If there is no significant improvement I will begin to summons senior officers to attend my office with all relevant documentation to hand.

I am pleased to see that the Council sent a representative to our link officers seminar last year. I hope that he found the seminar useful.

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. This year we carried out a detailed evaluation of the training with councils that have been trained over the past three years. The results are very positive.

The range of courses is expanding in response to demand. 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 and a course on reviewing complaints for social care review panel members. We can run open courses for groups of staff from

different 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.

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, have 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'. I would appreciate your feedback on these, particularly on any complaints protocols put in place as part of the overall governance arrangements for partnerships your Council has set up.

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.

J R White
Local Government Ombudsman

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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 | 7 | 2 | 1 | 1 | 8 | 8 | 21 | 8 | 0 | 7 | 63 |
| 2006 / 2007 | 3 | 10 | 2 | 2 | 4 | 13 | 15 | 6 | 0 | 3 | 58 |
| 2005 / 2006 | 6 | 4 | 3 | 1 | 4 | 12 | 16 | 5 | 1 | 1 | 53 |

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 | 0 | 9 | 0 | 0 | 14 | 6 | 12 | 13 | 41 | 54 |
| 2006 / 2007 | 0 | 15 | 0 | 0 | 10 | 8 | 9 | 18 | 42 | 60 |
| 2005 / 2006 | 0 | 12 | 0 | 0 | 14 | 5 | 7 | 18 | 38 | 56 |

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 | 26 | 45.3 |
| 2006 / 2007 | 20 | 34.5 |
| 2005 / 2006 | 19 | 36.1 |

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 |