

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

**Swindon Borough Council**

**for the year ended  
31 March 2009**

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 reviews.

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# Section 1: Complaints about Swindon Borough Council 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about Swindon 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 2008/09 and a note to help the interpretation of the statistics.

## Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

## Enquiries and complaints received

During the year our Advice Team received 69 enquiries and complaints about your Council. Of these, 26 were referred to the Council to be considered first through your own complaints procedures. This is a fairly high proportion (over a third) and it may indicate that more work could be done by the Council to ensure that dissatisfied citizens are properly signposted to your complaints procedures. Of the 26 complaints referred to the Council 10 concerned housing matters.

Advice only was given on 12 complaints (usually to make a complaint direct to the Council). The other 31 complaints were passed to our investigative team. Of these 11 were resubmitted complaints which had previously been referred to the Council for consideration through your own complaints procedures.

The subjects covered by the complaints passed to the investigative team covered the whole range of Council services. Seven complaints concerned planning issues and four housing. There were three complaints each on: Adult Care Services, Children and Family Services, Education and Transport and Highways. Two complaints concerned benefits. And there was one complaint on each of: local taxation, anti-social behaviour, environmental health, land, licensing of street trading and licensing of a caravan park.

## Complaint outcomes

During the year we made decisions on 30 complaints against the Council. No evidence of maladministration was found in four cases. My discretion not to investigate was used in 11 cases. Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant. Three cases concerned matters outside my jurisdiction so they were not investigated. In one case my investigator took the view that the complaint was premature and it was referred back to the Council to be considered through your own complaints procedures.

## Reports and local settlements

When we complete an investigation, we generally issue a report. This year I did not issue any reports against the Council.

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 2008/09 of all complaints decided by the Ombudsmen which were within our jurisdiction, 27.4% were local settlements. During the year 12 complaints against your Council were decided as local settlements, almost 40% of the total. The Council's willingness to agree local settlements, as demonstrated by the cases outlined below, is commendable.

**Education** In preparing a school's case for an admission appeal the Council did not give sufficient details before the hearing to allow the complainant to understand and challenge the reasons why her child was not offered a place. The Council agreed very promptly to offer a new appeal hearing. My investigator noted that the Council had already made great improvements on the standard case for appeals following the investigation of a complaint the previous year.

**Benefits** In one case where the complainant's husband had severe health problems but no proof could be found of a lost council tax benefit claim, the Council responded sympathetically by agreeing a repayment plan and offering to write off historic arrears if this was maintained. In a housing benefit case the complainant's home was leased by the Council from a private owner which caused difficulty for the Council's usual rent accounting methods. The complainant believed the Council had recovered housing benefit payments twice, but the Council delayed in providing a complete statement of her rent account. It agreed to pay compensation of £300 to reflect the distress and anxiety this caused her.

**Council tax** The Council agreed to refund bailiffs' costs and make a small payment to reflect the complainant's time and trouble, a total of £228, after it referred to the bailiffs an outstanding debt from 1996/97, without any notice that it intended to do so. This prevented the complainant from challenging or settling the debt without incurring the bailiffs' costs. My investigator also noted that no advice had been given to the complainant about how to pursue a complaint through the Council's own complaints procedure. In another case the Council sent a summons for unpaid Council Tax to a landlord rather than to his tenant who was liable for the payment. This caused the landlord, who was elderly, great distress and the Council agreed to a small payment of £50, to cover the cost of the taxi the landlord had taken when visiting the Council offices to resolve the matter.

**Housing** The Council offered compensation of £100 to a tenant after giving incorrect information about the boundary of her garden which had caused friction with her neighbour. The neighbour was to be offered a move (for other reasons) and the Council also agreed to reinstate the boundary and do some work to tidy the affected part of the garden. In another case the Council had refused to offer a move to a tenant because of significant rent arrears, but had failed to take account of all

relevant reasons why she needed to move, some of which were very serious. The Council agreed to reassess her priority for a move (resulting in upgrading her to Band A), to write off £300 from her rent arrears and to make a payment of £200 to allow her to buy new carpets when a move was offered.

**Transport and highways** The Council agreed to consider what more could be done to reduce the impact of flashing lights on a pedestrian crossing outside a complainant's home, in response to his concern that every room in his house was affected. It was not clear whether, before installing the crossing, the Council had properly considered the option of a pelican crossing which would have been less intrusive. In a complaint about a parking ticket the Council refunded the difference between the discounted amount and full payment (£30) after it was found that the procedure for challenging the reasonableness of the parking ticket had not been properly explained to the complainant.

**Antisocial behaviour** Compensation of £150 was offered to tenants who had sought a move because of antisocial behaviour from a neighbour. There was a delay of some two months in dealing with their appeal against refusal of priority for a move, which was upheld, although there was no evidence that they would have been moved more quickly but for the delay.

**Environmental health** On a complaint alleging inadequate action to deal with noise from birds kept on an adjoining property the Council agreed to undertake further investigation of possible noise nuisance after a decision had been made on a planning application for an aviary.

**Licensing** The Council had implemented a new policy for daytime street trading in the city centre but applied this policy for applications for night-time licences. When an applicant challenged the refusal of his licence application he was not given a proper reasoned explanation and his individual circumstances were not considered. Other night-time licences had been refused for lack of planning permission but the complainant did have planning permission. The Council agreed to compensation of £500 and to consider a new application from the complainant after a policy for night-time street trading had been put in place.

For all these cases, a total of £1,858 compensation was paid by the Council for injustice arising from maladministration.

### **Liaison with the Local Government Ombudsman**

I am pleased to note that the average time taken by the Council to respond to enquiries from my office has reduced significantly from last year and, at 27.8 days, is within our target time of 28 days. I do hope that this can be maintained or improved even further for the future.

My investigators have found your Council generally helpful and co-operative in dealing with our enquiries and I have commented above on the positive response given to proposals for local settlements. There is, however, scope to improve the content of some replies to our enquiries which are not always as comprehensive as expected.

In September two of my Assistant Ombudsmen led a seminar for your officers on the work of the Ombudsmen and the feedback was positive and complimentary. I hope it has proved helpful for officers dealing with our enquiries. Please let my Assistant Ombudsmen or investigators know if there is anything else we can do to assist.

## **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. 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.

We have extended the range of courses we provide and 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 Council's services.

**J R White  
Local Government Ombudsman  
The Oaks No 2  
Westwood Way  
Westwood Business Park  
Coventry  
CV4 8JB**

**June 2009**

## Section 2: LGO developments

### Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a ‘statement of reasons’ for Ombudsmen decisions.

### Council First

From 1 April 2009, the LGO has considered complaints only where the council’s own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

### Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

### Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

### Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

### **Adult Social Care Self-funding**

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

### **Internal schools management**

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

### **Further developments**

I 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 local 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.

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**June 2009**

# Appendix 1: Notes to assist interpretation of the statistics 2008/09

## Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

### 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.

**Formal/informal prematures:** 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 usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

**Advice given:** These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

**Forwarded to the investigative team (resubmitted prematures):** These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

**Forwarded to the investigative team (new):** These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted 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 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 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 Ombudsman 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 Ombudsman'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 Ombudsman'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 2008/09

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	Adult care services	Children and family services	Education	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	1	0	10	2	5	1	1	6	26
Advice given	0	0	0	1	1	1	2	4	3	12
Forwarded to investigative team (resubmitted prematures)	1	1	1	1	1	0	2	1	3	11
Forwarded to investigative team (new)	2	2	2	3	1	1	5	2	2	20
<b>Total</b>	<b>3</b>	<b>4</b>	<b>3</b>	<b>15</b>	<b>5</b>	<b>7</b>	<b>10</b>	<b>8</b>	<b>14</b>	<b>69</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	12	0	0	4	11	3	30

**Average local authority response times 01/04/2008 to 31/03/2009**

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	21	27.8
2007 / 2008	25	33.6
2006 / 2007	21	28.6

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	60	20	20
Unitary authorities	56	35	9
Metropolitan authorities	67	19	14
County councils	62	32	6
London boroughs	58	27	15
National park authorities	100	0	0