

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

**The London Borough of
Barking & Dagenham**
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 the London Borough of Barking & Dagenham 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Barking and Dagenham. 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

Last year our Advice Team dealt with 139 enquiries and complaints against your Council. Of these 48 related to complaints which we considered were premature, and we referred them to your Council for investigation. We gave advice to 19 other enquirers on a variety of matters, including my jurisdiction. Housing (59) accounted for the largest number of the enquiries and complaints received. Education (21), benefits (13) and public finance (11) generated the next largest numbers.

The Advice Team forwarded 72 complaints for investigation, including 14 complaints which had been referred to the Council to consider and had then been re-submitted. Housing and education accounted for more than half of these complaints.

Complaint outcomes

I decided 73 complaints in 2008/09. There were 27 complaints where I found no or insufficient evidence of fault by the Council to justify further investigation. There were also 12 complaints which fell outside my jurisdiction.

Local settlements

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. This can include such things as reconsideration of a decision, repairs carried out, policies reviewed, benefit paid, an apology or other action. In addition I may ask the Council to pay compensation. This year I agreed 21 local settlements with your Council and asked you to pay compensation totalling a little in excess of £3,000.

In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. At 34%, the rate of complaints settled by your Council was above the national average. However, this was significantly lower than the 47% of complaints settled the previous year.

Ombudsman's Discretion

Sometimes though the Council may be at fault I use my discretion not to pursue an investigation because there is no significant injustice to the complainant. But there still may be lessons for the Council to draw from such cases. This year I closed 13 cases using my discretion.

Complaints by service area

Housing

Housing Allocations and Homelessness

I decided eight complaints about the Council's housing allocation system and two about homelessness. I settled four complaints.

One concerned the Council's delay in accepting a homeless application and issuing a bidding reference number. I asked the Council to pay the complainants £250 and to amend the start date for their application. In a second case, though the complainant provided evidence that they would be evicted within 28 days, a homelessness application was not accepted until a week before. Although temporary accommodation was arranged, I asked the Council to pay £150 for the distress and uncertainty caused in addition to the £100 it had already offered for the delay in reviewing the property's suitability.

In a third case, a letter to a councillor providing further details of the complainant's circumstances was not brought to the relevant section's attention. The Council quickly agreed to review the complainant's circumstances.

In the last case I asked the Council to pay the complainant £50 for delay in implementing an earlier settlement.

Disrepair

I decided five complaints about council house repairs and found the Council to be at fault in four of them.

One case involved a failure to repair a kitchen before the tenant moved in, to the standard set out in the Council's booklet. The Council agreed to carry out the repairs I requested and paid the complainant £320 compensation.

A number of complaints involved delays. In one the Council offered £314 for delay in carrying out

some repairs, agreed to carry out the works and reimburse some of the complainants' costs and rent. A second concerned a leak causing more than £8,000 damage to a property. The Council agreed to pay £100 compensation for possible delay in dealing with the leak (the damage itself was subject to an insurance claim). The third concerned delay by the Council in providing its stage 3 response to a complaint about repairs. By this time most of the works had been carried out and some compensation already paid. The Council agreed to increase this by £50.

Leaseholders

I decided six complaints involving leaseholders.

I settled one complaint involving caretaking and the quality of gardening work. I considered that the leaseholder could have used the independent right of appeal available. However, there was a 14 month delay in completing the stage 3 response (though further complaints had been made during this process) and I asked the Council to pay £150 for this.

One complaint was outside jurisdiction as the leaseholder had a right of appeal. The four remaining complaints were from the same complainant. I found there was either insufficient evidence of fault or injustice to pursue any of these.

Other

I decided seven other housing related complaints.

In one case, a complainant had requested copies of minutes relating to decisions made by the Community Housing Partnership board. The Council initially sent the complainant minutes of the incorrect board. After a considerable number of further requests the Council acknowledged that it was unable to locate minutes relating to the matters in question. The Council promptly agreed my proposal to pay the complainant £100 for time and trouble, and to consider how the CHP boards might improve their minuting of meetings.

The remaining cases involved homelessness, managing tenancies and private housing grants. I did not find sufficient grounds to pursue these complaints further.

Education

I decided 16 complaints about education.

Of these cases 14 concerned school admissions. I settled two of these and found no or insufficient evidence of fault in the remaining cases.

In one of the two cases settled, an applicant for a school place felt that the appeal panel misdirected itself and failed to correctly consider a letter of support from the child's primary school teacher. The Council initially resisted offering a new appeal as it considered that such letters were precluded by the Code, but agreed to offer a new appeal after I explained that this was not our understanding.

In the second complaint, insufficient notice was given of the date of the appeal. The Council explained that insufficient resources had been in place, and it had already apologised for the late despatch of the papers. The Council again agreed a new appeal.

I understand that changes had been made to the appeals service, notably improved sharing of information between Children's Services and Democratic Services, and changes to how the clerk's notes and decisions are recorded. It would certainly appear that these changes have led to improvements in the handling of appeals, given the decline in settled school admissions complaints

from seven in 2007/08 to two in 2008/09.

I also settled a complaint concerning special educational needs. In this case, I asked the Council to pay the complainant £100 for time and trouble for failing to respond to letters from their MP.

The remaining complaint about a child excluded from school was outside my jurisdiction.

Housing benefit

I decided 10 complaints about benefits of which nine concerned housing benefit. Half of these complaints were outside my jurisdiction due to the complainants' right to appeal and only one resulted in a settlement.

In that case, the Council did not respond to requests from a landlord for information which he wanted in connection with an overpayment appeal. There was fault and delay in how the Council responded to his late appeal. The Council readily agreed to settle the complaint by paying the complainant £250 for time and trouble in pursuing his complaint and to submit the appeal promptly to the Tribunals Service. The Council had also released information about the tenant's new address in breach of the Data Protection Act. It agreed to review its procedures to ensure that claimants' new addresses are not wrongly disclosed.

I also used my discretion to close two complaints. In one the Council had offered £250 compensation for 10 months delay in forwarding an overpayment appeal and providing information requested in connection with that appeal. I considered that that was a sufficient response.

Antisocial behaviour

I decided four complaints about the Council's response to antisocial behaviour. In two cases the Council was not at fault, but in the other two cases I agreed local settlements.

In one case a resident had been experiencing noise nuisance from the flat above for a period of two years. The issues involved were complex and it took some time to establish what powers were applicable. The Council settled the complaint by agreeing to install noise monitoring equipment, to determine what action might be taken, and to pay the complainant £500 compensation. The Council also agreed to change its tenancy conditions to require tenants to seek permission before installing laminated flooring above the ground floor.

In the second case, there was a nine month delay in involving the anti-social behaviour team in a complaint about nuisance from a neighbour. The Council offered noise monitoring equipment which was declined, and concluded that there was no nuisance on which it could take action against the neighbour as this was a clash of lifestyles. However, the Council offered a management transfer to the complainant and also agreed to pay £100 compensation for time and trouble.

Planning and Building Control

I received two complaints about planning matters and settled both.

One complaint concerned the Council fettering its discretion by refusing to consider the future of a tree outside the complainants' parents home. The Council agreed to review the future of the tree, and also apologised for an inappropriate remark on file about the complainant's father. The Council was initially reluctant to acknowledge fault but the settlement was secured with the assistance of the complaints unit.

In the second complaint, the Council agreed to investigate the complainant's concerns that

domestic garages to the rear of his home were being used for business purposes, and to consider the possibility of enforcement action.

Local Taxation

I decided four complaints. I found no evidence of fault in two, and one was outside my jurisdiction. I settled the remaining complaint. The complainant said that the Council had failed to deal with their Council Tax Benefit appeal. The Council said it had not received the letter but helpfully agreed to consider the letter as a late appeal.

Land

I decided two complaints. I used my discretion to close one, and settled the other. In this case, the Council had failed to contact the complainant over the gating of an alleyway over which they claimed a right of access, resulting in the complainant being denied access. The Council was initially slow to recognise that there were administrative elements in its handling of the matter which were separate from the private legal rights. The Council agreed to apologise for taking action without consulting the complainant, to pay the complaint £500 for time and trouble and to review its procedures.

Leisure and Culture

I settled one complaint involving the relocation of allotments. The principal issue concerned the failure of the Council to impose a condition about the transfer of slow worms, and its failure to prevent the developer from moving them at the wrong time. The Council agreed to pay the complainant £100 for time and trouble and to review its procedures for protecting wildlife when considering planning applications.

Other

I decided a further six complaints about matters including parking, rights of way, access to information and environmental health. None of these resulted in settlements.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was 23.9 days, which continues the Council's good record of meeting the 28 day time target we set and is slightly quicker than the Council achieved last year.

The complaints above show a few instances of delays, but I understand that there have on occasions been resourcing issues affecting the complaints unit which may have contributed to these. In general, however, my investigators continue to find officers co-operative and responsive in dealing with enquiries and requests to settle complaints. I note that during the year, of the 10 cases I decided which had previously been referred to the Council and which had then been resubmitted, five were local settlements. The Council may wish to consider if it needs to do more to ensure that complaints are fully resolved through its own procedure. That said, I am also conscious of the importance which the Council continues to attach to the complaints process and the care that the complaints unit takes to ensure that lessons learnt through the complaints process are passed on to the service areas.

I was pleased to note that the Council's link officer was able to join one of our recent seminars. I was also again grateful for the opportunity to present last year's Annual Letter to members.

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.

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.

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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	3	1	1	24	2	6	1	4	6	48
Advice given	0	0	2	7	1	2	1	1	5	19
Forwarded to investigative team (resubmitted prematures)	0	0	0	5	2	2	0	0	5	14
Forwarded to investigative team (new)	1	0	18	23	8	1	1	2	4	58
Total	4	1	21	59	13	11	3	7	20	139

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	21	0	0	27	13	12	73

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	46	23.9
2007 / 2008	19	24.3
2006 / 2007	20	22.4

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

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