

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

London Borough of Barnet
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 Barnet 2008/09

Introduction

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

I received 186 enquiries and complaints concerning your authority in the year ending 31 March 2009. Of these, 51 concerned Housing and 30 were about Planning and Building Control. Of the remainder; 18 concerned Transport and Highways, 17 were about the administration of Benefits; 15 related to Education issues; a further 13 were about Adult Care Services; 12 were about Public Finance including enquiries or complaints made about local taxation; three were in relation to the provision of Children and Family Services; and the remaining 27 were about a broad range of issues including Anti-Social Behaviour, the provision of Leisure facilities, and Environmental Health.

Of all the enquiries and complaints received by our Advice Team, 65 were passed on to the Council to attempt to resolve in the first instance as the complainant had yet to exhaust the Council's corporate complaints procedure, and it seemed that they would not be disadvantaged by doing so before complaining to me if they remained dissatisfied at the end of that process. A further 37 enquirers were content with the information they received from our Advice Team and did not want to pursue their concerns further with us at that time. The 84 remaining enquiries were passed on to an investigative team for consideration.

Complaint outcomes

Of the 100 decisions I made on complaints in the year, 15 were outside jurisdiction as I was prevented by law from considering them; I found no evidence of maladministration in 54 cases; I exercised my discretion not to continue my involvement in 14 cases usually because there did not seem to be any significant injustice caused to the complainant; and I agreed a local settlement with the Council in the remaining 17.

Local settlements

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, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority this year, 20% of those within jurisdiction were local settlements.

Housing

Seven of the 17 local settlements were in this area.

Housing repairs

I decided two complaints about the Council's housing repairs function, and found the Council to be at fault in both.

In one, the Council had delayed nine months in diagnosing subsidence in the complainant's property, determining the remedial work required and informing the complainant; and seven months in explaining to them what was happening and how the repairs would be carried out. The Council agreed to pay the complainant £1,600 as compensation, and also to take steps to ensure that its staff were fully aware how to deal with complaints. I see that it wrote speedily to explain how it had achieved what it described as significant improvements in complaints handling in response.

In the other complaint, the Council had failed to agree with the complainant the changes to be made to their kitchen as part of its work under the Decent Homes scheme. The Council agreed to remodel parts of the kitchen and to pay £100 compensation.

Regeneration and improvement

I decided two complaints in this area, and found the Council to be at fault in one. In the latter case, the Council had delayed for ten months in achieving the first step in what had been agreed improvement and adaptation works. Prior to this it had failed to keep the complainant fully informed during the years leading up to the agreement and to co-ordinate and plan the work efficiently. The Council paid £1,000 as compensation, and agreed to consider how to improve the planning and co-ordination of the works needed to the complainant's home and improve its communication with them.

Housing allocations

I decided 11 complaints about the Council's housing allocations scheme. In one of these I found the Council to be at fault because it had failed to deal properly with the complainant's representations against their removal from the Housing Register. It reinstated their application in response, and took action to deal with the problem which had occurred as a result of a problem

with its computer software system. Although the complainant had lost the opportunity to bid for vacant properties in the intervening period, checks showed that any bids they may have made would not have been successful in any event.

Homelessness

I decided five complaints about the way in which the Council handled applications from those who considered they were either homeless or threatened with homelessness and in priority need. I found the Council to be at fault in one case where the complainant had had to live in temporary accommodation that had not been properly inspected and where there were a number of minor defects not least of which was an unsecured front door. The Council agreed to pay £150 for the complainant's distress and the unnecessary time and trouble they were put to in pursuing the complaint. It also decided to no longer use the property agents who had managed the building in question.

Housing sales/leaseholds

In the two complaints I investigated this year about this subject area I found the Council to have been at fault in both.

In the first the Council had failed to tell a leaseholder that new keys were needed following the completion of works. It paid the complainant £50 for their time and trouble in pursuing their complaint about this, and agreed to revise its notification procedures. In the other complaint the Council appeared to have delayed for 12 months in replying to a leaseholder about works carried out to the doors of their block of flats. The Council paid them £500 as redress for this oversight and agreed to consider any information they provided about the costs they had incurred in maintaining the doors themselves. It also agreed to replace the doors within eight weeks.

Planning and building control

Planning applications

In the 12 complaints I received within jurisdiction about the way the Council decides planning applications I found fault in three cases.

In one of these three, the Council had made unreasonable charges for legal work when drawing up section 106 agreements, and did not repay these when planning permission was refused. It then delayed unnecessarily in repaying the fees once it had agreed to do so. As a means of redress it agreed to repay part of the legal fees it had charged applicants, all of the fees it charged for advice, and interest on the money it had not repaid as agreed as well as compensation for the complainant's unnecessary time and trouble in pursuing the matter. In all it paid £2,290 compensation.

In a second complaint, the Council had failed to communicate with the complainant following his reports of a breach of planning control. It agreed to apologise to them in writing.

In a third complaint the Council, having previously refused a first planning application for a proposed rear extension at an adjacent property because it was deemed to be too deep and would – in its view - have had a detrimental effect on the complainant's amenity, approved a second application where the depth was the same. Ultimately I concluded that it was likely that the application would have been passed in any case, as there was already a further neighbouring extension in existence of similar depth, but the Council agreed to apologise and to pay the complainant £100 for the uncertainty its handling of the two applications caused.

Transport and highways

In five complaints I did not investigate as the matter was outside our jurisdiction due to alternative appeal rights. One of these was noteworthy as the Council instructed its bailiffs to withdraw an inappropriately worded letter they used when seeking to recover unpaid parking fines on the Council's behalf, and to seek prior approval for a revised letter before its use.

In the five complaints I did investigate I found the Council to have been at fault in one. In that complaint, the Council had put gates on alleyways which gave rear access to gardens either side of them as well as connecting streets on a housing estate. The gates had been put in place as a means of reducing anti-social behaviour, but keys were distributed to all residents on the estate. The complainant argued that the alleyways should only be for the use of residents who needed to access their rear gardens and that by giving keys to everyone else the overall aim of reducing anti-social behaviour had not been achieved. The Council agreed, and changed the locks and reissued keys only to the residents of the six properties which were accessible from each alleyway.

Benefits

In the eight complaints I investigated about the administration of Housing Benefit or Council Tax Benefit I found the Council to have been at fault in three, and it paid a total of £600 in compensation as a means of redress.

In one complaint, the Council should have made clear much earlier than it did to an applicant for Housing Benefit that in this instance an application should also have been made to the Department for Work and Pensions for a determination. The Council agreed to pay the complainant £100 within a day of my office proposing this settlement.

In a second case, the Council made errors in its handling of a Housing Benefit claim, including omitting dependant children from the claim and failing to refer the eligible rent to the Rent Service following the birth of a third child. The Council paid the arrears of additional benefit to which the claimant was entitled, together with £300 as compensation for the distress caused by its errors and the complainant's unnecessary time and trouble and expense in pursuing the complaint.

In the third case, the Council delayed in repaying money owed through its rent deposit scheme. It agreed to pay £150 for the delay and £50 for the complainant's time and trouble.

Education

Of the eight complaints I received about education issues, one was outside my jurisdiction. I did not find the Council to have been at fault in any of the remaining seven complaints that I investigated. In one of these I drew the Council's attention to two apparent breaches of the School Admissions Appeal Code, but I could not see that these had caused any direct injustice.

Adult care services

I investigated five complaints in total about the provision of Adult Care Services and found the Council to have been at fault in one of these. In that complaint, the Council failed to provide timely advice when a complaint was made that a residential care home had unreasonably approached the complainant and insisted that discretionary top-up fees were to be made directly to it. The complainant felt that these payments were mandatory and found it difficult to meet them. The Council agreed to repay all the payments made after it had been told about them, and to pay an additional £500 in compensation.

Public finance including local taxation

I investigated six complaints about this area of service, and found the Council to have been at fault in one of these. The complaint made was by an elderly asylum seeker who was being supported by the Council under interim support. This support was only intended to meet essential needs. The Council did not consider the payment of the complainant's Council Tax to be an essential need and so did not pay it. It told the complainant that it had no power to remit the resultant debt that built up which the complainant had no means of paying and so was at risk of imprisonment. The Council agreed to take legal advice, and in the light of this advice it repaid the debt, which totalled £3,232.

Children and family services

Of the two complaints I received, one was outside my jurisdiction and I did not find the Council to have been at fault in the one that I investigated.

Other

I received 14 complaints under the broad category of "other" I upheld one complaint where the Council had delayed unreasonably in providing information.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was 31.6 days, which is slower than the time target of 28 days we set, albeit slightly faster than the Council achieved last year. The average times for London Boroughs to respond to our enquiries show that 58% met the 28 day target.

In four complaints which led to local settlements my investigators noted particularly helpful or speedy contributions by Council staff, but in another three complaints they raised some concern about the quality of the Council's responses which necessitated further enquiries that otherwise might not have been necessary.

I was pleased to see that one of the Council's officers attended a seminar I arranged in March 2009 to update local authority staff who co-ordinate responses to our enquiries on our new working arrangements and changes in our jurisdiction. I hope they found it 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. 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	4	2	2	16	10	6	10	7	7	64
Advice given	3	0	4	12	2	1	1	1	12	36
Forwarded to investigative team (resubmitted prematures)	0	1	1	6	1	2	4	1	3	19
Forwarded to investigative team (new)	6	0	8	17	4	3	15	9	5	67
Total	13	3	15	51	17	12	30	18	27	186

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	17	0	0	54	14	15	100

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	67	31.6
2007 / 2008	62	34.9
2006 / 2007	58	31.8

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