

**The Local Government Ombudsman's
Annual Review
Basildon District 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.

Contents of Annual Review

Section 1: Complaints about Basildon District Council 2008/09.....	3
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	3
Liaison with the Local Government Ombudsman.....	5
Training in complaint handling.....	5
Conclusions.....	5
Section 2: LGO developments.....	7
Introduction.....	7
Council First.....	7
Statement of reasons: consultation.....	7
Making Experiences Count (MEC).....	7
Training in complaint handling.....	7
Adult Social Care Self-funding.....	8
Internal schools management.....	8
Further developments.....	8
Appendix 1: Notes to assist interpretation of the statistics 2008/09.....	9
Appendix 2: Local authority report 2008/09	

Section 1: Complaints about Basildon District Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Basildon District 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

A total of 86 enquiries was received about your Council in 2008/09. Of these, 39 were either instructed to put their complaint to the Council first or assisted in doing so. A further 15 were content with the advice which they received and did not wish to pursue the matter further at that time.

Of the 32 formal complaints which we received, 22 related to housing matters. The remaining complaints forwarded for investigation spanned a number of different service areas including housing benefit, local taxation, drainage and waste management.

Complaint outcomes

I made 39 decisions on complaints made against your Council last year. Three were outside my jurisdiction. I found no fault in 14 cases, and exercised my discretion to end my involvement in a further three because of a lack of injustice to the complainant. Of the remaining decisions I published four reports and settled 15 complaints locally.

Reports

When we complete an investigation, we generally issue a report. This year we issued four reports – three in respect of the wrongful publication of personal information, and one on lengthy delays in completing housing repairs for which the Council was responsible as the landlord.

The multiple report concerned three individuals who made the same complaint about the Council publishing sensitive personal information about the complainants and their family members in a report to its Development Control and Traffic Management Committee. The report was considered in the open part of the Committee meeting and copies were made available to members of the press and the public who attended. The report was then published on the Council's website and remained there for a period of 10 days.

I did not fault the Council for gathering the detailed information which it required to assess the impact of planning enforcement action it was considering. But I was of the view that this information – by virtue of its personal and sensitive nature – should only have been considered in closed session with members of the public and the press excluded. After careful consideration, I asked the Council to send each of the complainants a letter of apology from a Senior Officer together with £300 compensation to reflect the anxiety they were caused about the potential misuse of the information which had wrongly been put in the public domain.

The Council's Appeals and General Purposes Committee considered my report and agreed that it would be appropriate to write to the complainants to apologise. The Committee also decided to reject my recommendation for payment of compensation on the basis that it would not be a fair or equitable remedy. It later provided me with a copy of the letter of apology it had sent to the complainants. It was not from a Senior Officer; conveyed very little understanding of the extent to which the complainants were upset and outraged by the publication of the information; and gave no assurances that any lessons had been learnt as a result of the error. I was very dissatisfied with the content of the letter of apology as well as the Council's refusal to pay the modest level of compensation I had recommended. I therefore issued a further report calling on the Council to comply with my original recommendations. Despite repeatedly stating that it has respect for my office, the Council still resolutely refuses to comply with my recommendations concerning redress for these complainants who experienced considerable shock and outrage when they discovered that such personal information had been made public.

The report on housing repairs related to a 15 month delay to fix leaks in a flat caused solely by the poor standard of repairs previously carried out to the complainants' home. The Council, after a number of visits by my Investigator to meet Officers on site, finally completed works to the property which stopped the leaks. As a result of this complaint the Council also reviewed its handling of repairs cases and put in place formal procedures for improving the handling of such complaints.

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 that were within jurisdiction 46.8% were settled locally, the vast majority being in respect of complaints about housing repairs. We asked you to pay a total of £6,450 compensation in respect of these complaints.

Seven complaints were made by residents of a sheltered housing complex. The Council had failed to attend to problems with the structure of the building over a number of years and this had resulted in severe leaks affecting all of the flats. A number of the complainants' dwellings had

damaged plasterwork and window surrounds. One resident was unable to use her bedroom due to the level of dampness. The Council agreed to carry out major works at the complex which would address the leaks, and pay a total of £3,600 compensation including £2,500 for a resident's fund.

I upheld a further six separate complaints from individuals where there were recurrent themes in respect of delays in responding to requests for repairs; failure to identify and address the source of water ingress; and poor record keeping. These failures all resulted in tenants living in inadequate housing conditions for longer than was necessary.

Liaison with the Local Government Ombudsman

I am grateful to the Council for its efforts in prioritising responses to our enquiries. The average response time last year was 25.4 days which is within the 28 day target I set each year.

I understand that a number of officers from the housing repairs team met with one of my Investigators during 2008 to discuss ongoing concerns and that as a result of that meeting the Council undertook to put in place closer monitoring arrangements for its contractors; enhance its repairs call centre provision; and establish an action plan to identify areas that require further improvement. I would be grateful for an update on progress in respect of this matter.

I am pleased to note that one of your officers recently attended one of the regular seminars we hold for local authority staff who are tasked with co-ordinating responses to our enquiries. I hope they found it useful.

Training in complaint handling

I note that during 2008/09 we provided training in Effective Complaint Handling and Good Complaint Handling to staff from your authority. We continue to deliver high quality courses in complaint handling for local authorities and I have enclosed some information on the full range of courses currently available together with contact details for enquiries and bookings.

Conclusions

I provide an independent and impartial means of redress for citizens who are adversely affected by administrative failings of local authorities. The Council's continued unwillingness to provide the remedy I have sought for the complainants who had their personal data wrongly made public is an increasing cause of concern to me. The remedy I sought was neither disproportionate nor unfair. The Council's refusal to provide the remedy does not accord with the respect it has said it continues to have for my office, let alone the degree of respect it should have for all of its service users including those who were affected by its actions in this instance.

I continue to have concerns too about the volume of complaints I receive where I find fault with the Council's handling of repair requests from its tenants. Some of the complaints I have dealt with this year have been from people who are vulnerable as a result of their age, and I would ask the Council to continue to do all that it can to increase the responsiveness of its service in this area.

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	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	21	0	8	2	1	7	39
Advice given	6	3	2	0	1	3	15
Forwarded to investigative team (resubmitted prematures)	4	1	0	0	0	0	5
Forwarded to investigative team (new)	18	1	2	1	0	5	27
Total	49	5	12	3	2	15	86

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	4	15	0	0	14	3	3	39

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	28	25.4
2007 / 2008	33	26.9
2006 / 2007	35	30.7

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