

**The Local Government Ombudsman's
Annual Review
Brighton & Hove City 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 Brighton & Hove City Council 2008/09.....	3
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	3
Liaison with the Local Government Ombudsman.....	6
Training in complaint handling.....	6
Conclusions.....	6
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 Brighton & Hove City Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Brighton & Hove City 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.

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

Enquiries and complaints received

Our Advice Team received 148 enquiries and complaints relating to the Council. In around a quarter of them we felt that the Council had not had a reasonable opportunity to consider and respond to the matters raised. In another 28 cases we offered advice. And just over half of the cases (82) were passed on for investigation by my staff. The main subject areas were housing (homelessness, allocations, repairs and tenancy management), education (mostly school admissions), planning and building control (all of which were about the way the Council had dealt with applications for planning permission), and transport and highways (including parking).

Complaint outcomes

Often, during the course of our investigation, a council takes or agrees to take action that we consider to be a satisfactory response to the complaint. The investigation is then discontinued and is referred to as a local settlement. 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, 10 (13.8%) were local settlements.

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 16 cases in this way.

There were 46 complaints where I found no or insufficient evidence of fault by the Council to justify further investigation. There were also 13 complaints which fell outside my jurisdiction.

Complaint outcomes by service area

Adult social care

I decided five complaints during the year and two of these resulted in local settlements. In one of these I asked the Council to apologise for its delay in replying to correspondence from a solicitor which had been caused by correspondence going astray within the Council and by officers' leave.

The other case was about missed homecare visits to a disabled person. There had been a misunderstanding when responsibility for the visits passed from the Council to its contractor. The Council had already introduced procedural changes to try to avoid such problems occurring in the future but at my request it also offered an apology and paid £75 compensation.

Children and family services

I decided two complaints in this category and one was a local settlement. The Council had agreed to back date a request for payment of residence order allowance after the complaint had been through three stages of the Council's complaints procedure. I felt this was a reasonable decision but that the Council should also have offered compensation for the time and trouble that the person had incurred when pursuing the complaint. The Council swiftly agreed to my recommendation and paid £200 compensation.

Education (including school admissions)

I decided 10 complaints about school admissions and one complaint about special educational needs during the year. I did not uphold any of the complaints but I suggested that the Council should review the arrangements and time allowed for plenary sessions to ensure parents have an adequate opportunity to raise issues. Plenary sessions are meetings at which all parents who are appealing for a place at the school are given the opportunity to comment on the Council's claim that a school's admission arrangements were correctly applied and prejudice would be caused if another child were to be admitted to the school.

Housing

Homelessness

One of the two complaints that I decided about homelessness resulted in a local settlement. There were unreasonable delays in dealing with the application because papers were mislaid and medical information was not requested on time; and there was further delay in dealing with a request for a review of the Council's decision on the application. The Council agreed to pay £300 compensation for the distress caused and for the person's time and trouble pursuing the complaint. The Council also explained that it was allocating more resources to the department which had improved the time taken to deal with homelessness applications and it had introduced procedural changes to reduce the likelihood of documents being lost in the future.

Housing repairs

I decided 7 complaints about housing repairs during the year and there were two local settlements.

In one case, problems caused by a tenant in the upstairs flat contributed to damp and mould in the

flat below. The Council experienced problems in addressing the matter because of the upstairs tenant's mental health issues and the complainant's refusal to move out to allow repair work but, even so, I felt that there had been unreasonable delay in dealing with the problems. The Council paid £1,000 compensation to the tenant of the downstairs flat who was also able to move to a new property.

In the second case the Council agreed to inspect and repair draughty windows in a property.

Private housing grants

I agreed a local settlement of a complaint made by one resident of a block of flats but the Council agreed to apply the settlement to the nine other households in the building. A senior officer's unexpected sick leave had left the team unable to process grant applications. This resulted in officers giving incorrect and conflicting advice to applicants seeking grants towards the cost of replacing their heating and hot water systems. The absence was totally unexpected and lengthy but the Council accepted that arrangements should have been made sooner to enable the team to carry on its role. The Council agreed to make payments equivalent to the grants that should have been available to all the households. The compensation to the person making the complaint (including the "grant payment") amounted to £4,675.

Planning and building control

I decided 13 complaints about these issues and there were two local settlements.

In one case the Council accepted that it had failed to keep a neighbour properly informed of the way it was dealing with his complaint about alleged breaches of planning permission for a neighbouring extension and paid £100 compensation.

In the other case the Council had apparently failed to reach a decision on an application for retrospective planning permission originally submitted in 2004. The Council acted very swiftly once I commenced my investigation and immediately wrote to apologise and explained that correspondence had been mistakenly treated as objections to the planning application rather than being treated as a complaint. The Council had already decided to take enforcement action and so I decided that no compensation was appropriate.

Public finance

I decided four complaints within this category which includes complaints about council tax. One resulted in a local settlement: the Council had confirmed in writing that no council tax was due on a property following the complainant's mother's death. It subsequently issued a bill showing that tax was payable but the complainant was not aware of the tax bill until after the property had been sold. The Council also failed to advise him that he could have taken simple steps to qualify for a different exemption which would have resulted in no tax being payable. The Council also issued a summons for the tax liability despite being aware of my ongoing investigation but promptly cancelled it when asked to do so. The Council agreed to pay compensation of £550 representing the tax bill plus a small sum for the inconvenience caused by its actions.

Transport and Highways (including parking)

I decided 11 complaints within this category: Seven were about parking, two were about highway management and two about public transport. I did not uphold any of the complaints but in one case I suggested that the Council should review its approach to dealing with complaints about the introduction of a new parking system introduced in April 2007. The Council acted on this suggestion and reviewed the way it had responded to all complaints about this issue.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was 28 days, which is the time target we set and a slight improvement on last year. I welcome this improvement and hope that the Council will be able to maintain or improve on this in the coming year.

My staff report that the members of your corporate complaints team are co-operative and professional when dealing with our investigations.

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 groups of individuals from different authorities.

Please contact our training team if you are interested in any of our training courses.

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.

**Tony Redmond
Local Government Ombudsman
10th floor
Millbank Tower
Millbank
London
SW1P 4QP**

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.

Tony Redmond
Local Government Ombudsman
10th floor
Millbank Tower
Millbank
London
SW1P 4QP

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	6	3	8	2	8	10	38
Advice given	0	0	5	3	1	2	3	2	12	28
Forwarded to investigative team (resubmitted prematures)	2	0	0	3	2	1	1	2	2	13
Forwarded to investigative team (new)	4	0	11	19	1	4	9	7	14	69
Total	6	1	16	31	7	15	15	19	38	148

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	10	0	0	46	16	13	85

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	42	28.0
2007 / 2008	42	28.7
2006 / 2007	36	31.2

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