

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

London Borough of Bromley

**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 the London Borough of Bromley Council 2008/09	3
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	4
Liaison with the Local Government Ombudsman.....	7
Training in complaint handling.....	7
Conclusions.....	7
Section 2: LGO developments	8
Introduction.....	8
Council First.....	8
Statement of reasons: consultation.....	8
Making Experiences Count (MEC).....	8
Training in complaint handling.....	8
Adult Social Care Self-funding.....	9
Internal schools management.....	9
Further developments.....	9
Appendix 1: Notes to assist interpretation of the statistics 2008/09	10
Appendix 2: Local authority report 2008/09	

Section 1: Complaints about the London Borough of Bromley Council 2008/09

Introduction

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

Our Advice Team received 129 complaints and enquiries during the year. These were spread across the Council's services with 26 concerning planning and building control and 18 about highways, which includes parking. Significant numbers were also received about adult care services (13), children and family services (12), education (14) and benefits (13). These areas also comprised the majority of the complaints forwarded to the investigative team. Public finance (which includes council tax) received 10 enquiries, most of which we deemed to be premature and so were referred back to the Council for investigation. All other service areas generated a total of 23 enquiries and complaints.

We treated 38 of all the complaints and enquiries received as premature and in a further 25 cases advice was given (usually to make a complaint direct to the Council). The remaining complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 57 complaints against the Council during the year. In 23 of those cases (40%) I found no evidence of maladministration. I used my discretion not to investigate a further nine. Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant. In nine cases I took the view that the matters complained about were outside my jurisdiction and so they were not investigated. No investigations resulted in the publication of a report.

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 against your Council 16 were decided as local settlements and we asked you to pay compensation of £8,550 in total.

Complaints by service area

Children and family services

I decided nine complaints about children and family services. In two cases I decided there was no maladministration and in a further two I considered them to fall outside my jurisdiction. And in one case I decided that the events happened too long ago and made investigation impracticable. Four cases reached a satisfactory local settlement.

In one I found that there were various failings by the Council when a young man returned to his father's care in 2004. This meant that the young man continued for two years to live in unsuitable conditions with a father who potentially was unable to care properly for him. He was also caused distress when no help was provided when he reported an incident in 2006. There were also considerable delays dealing with the complainant's (the young man's mother) complaint, which led to her incurring time and trouble to pursue it. In considering the complaint the Council conceded fault in a number of areas and had offered compensation of £1500 to the young man and £250 to the complainant. I considered that to be insufficient and the Council agreed to my recommendation to increase the compensation to £2,500 and £350.

In another case, during my consideration of the complaint, the Council revised its proposals relating to the closure of day centres so that the complainant's daughter's day centre would not close until each person attending had an individual package of support in place.

The third complaint in this category to be settled concerned delay in arranging respite care for the complainant's son. The Council also failed to inform her that her son would only be entitled to both outreach and respite care if he had been assessed as having high-level needs, failed to make a respite referral in April 2006, delayed in arranging extra outreach and delayed setting up direct payments. It also failed to carry out an assessment for her daughter. I considered that the complainant had suffered distress, time and trouble and had to wait longer than she should for support to be available. The Council had recognised these faults in its own consideration of the complaint and had offered compensation of £250. I felt that was inadequate and the Council promptly accepted my suggestion to increase the compensation to £500.

The last complaint in this category was made by a person who had been on the at-risk register from a young age and had further involvement with social services as a teenager. She wanted to pursue complaints about the care and support she received but when she approached the Council for her files they could not be found. The Council accepted that it had lost the files and offered compensation of £250. However I considered that was insufficient and recommended £1000 to which the Council agreed.

Education

I decided nine complaints about education. Two were about education admissions, one was closed because there was no maladministration and one because the Council had already taken action that satisfied the complaint. In another the complaint concerned internal school matters and was therefore outside my jurisdiction.

Special Educational Needs

The remaining six all concerned special educational needs. Two were closed using my general discretion not to investigate complaints and one was outside my jurisdiction. The remaining three all reached satisfactory local settlements.

In one case the Council failed to inform the complainants about the availability of a place for their son at a school. Their son was without education for one term but all sides considered the school in question to be unsuitable and therefore it was possible their son would still not have attended the school. The Council agreed to make provision of additional support for their son to catch up on the missed education.

In another case there were failings including delay and inadequate consideration relating to a clothing grant and travel expenses. The Council agreed to pay compensation of £75 and to reconsider the representations made by the complainant.

The last complaint in this category concerned the education of a child unable to attend school due to medical needs. The failure to follow the Council's policy resulted in no education being provided between September 2007 and February 2008. In addition, the Council failed to review the limited education provided to the complainant's son from February 2008 to establish whether it could be increased. The Council agreed to pay compensation of £2000 to the complainant's son and £500 to the complainant.

Planning and Building Control

I decided nine complaints about planning applications. Five of these were closed because there was no maladministration and two by using my general discretion. Two cases were locally settled. In one the Council could not demonstrate that it had given adequate consideration to the impact a proposed development would have on the dining room window of the complainant's property and in the other it failed to notify the complainant of a planning application for a neighbouring property. In both cases it could not be concluded that the outcome of the application would have been different but the Council agreed to pay compensation of £250 to recognise the complainants' sense of grievance that proper procedures had not been followed.

Benefits

I decided four complaints about benefits. One was outside my jurisdiction and in one I did not consider there to have been maladministration. The other two complaints were settled. In one case the Council had delayed in making a decision on whether an overpayment was recoverable. In response to our informal enquiries the Council made the decision. In the other there were delays in making payments. The Council readily accepted that there was fault and offered compensation of £75 which I considered to be acceptable.

Housing

I decided three complaints about housing, one was outside my jurisdiction and one was closed using my general discretion. The remaining complaint was settled and concerned an application by the complainant as homeless. The Council failed to respond to the application. The failing was unlikely to have affected the decision that was eventually made in respect of the application but a timely response may have given the complainant more time to find alternative accommodation. The Council agreed to pay compensation of £250.

Of the other complaints that resulted in local settlements one concerned local taxation. The Council failed to explain how money paid to bailiffs would be used and that resulted in the wrong issue of two summons. The Council agreed to pay compensation of £200. Another concerned parking. Failure to follow its policy and other faults in the process resulted in the complainant's car being destroyed. The Council accepted my recommendation to pay compensation of £500. The final complaint that was settled related to a repeated problem of missed recycling collections where the Council agreed to pay compensation of £100.

Education admissions

At this point I would like to raise an issue for which the Council has no direct responsibility, but where I hope it will consider the use of its good offices. Almost all the secondary schools in the Borough are either Voluntary Aided or Foundation schools and responsible for their own admissions and admissions appeals procedures. With the exception of the one remaining community school, the Council's responsibility is limited to its coordinated admissions arrangements. During the year I issued one report against a Foundation school in the Borough in which I highlighted problems with its admissions appeals procedures. In other cases I criticised the appeals procedures of the schools concerned, although in those cases I saw no need to issue a report.

One problem that became apparent was that schools were finding it difficult to recruit people who are willing to serve as members of and clerks to appeal panels. I am grateful for the fact that the Council already offers training to appeal panel members. But I wonder if there are any steps it could take to increase the supply of people willing to serve as appeal panel members. I would also be grateful if it would consider offering the schools the opportunity to access the Council's own admissions appeals arrangements as some other councils do, either by allowing them to buy in the services of the people involved or otherwise. And the Council may be able to identify other measures it could take which would improve the quality of the appeals process in schools where it has no responsibility. I appreciate that the position within the Borough is quite unusual, but I believe that the Council could take steps at little or no cost to itself that would improve the experience of parents within the Borough who wish to appeal against the refusal of a secondary school place.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 42 complaints during the year. Your Council's average response time of 32 days is a significant improvement on the previous year (45.8 days) but remains outside the 28 days requested. I note that, on average, responses to enquiries on complaints about planning, benefits, children and family services and education take longer than responses on other service areas.

My officers continue to appreciate the readiness of your staff to consider taking early action to resolve complaints. However responses often come direct from the service department concerned rather than through the central contact point for complaints. This can lead to a variability in the standard of responses provided.

I would be grateful for further progress in this area to improve both the timelines and the quality of the Council's responses to my enquiries.

Training in complaint handling

I am pleased that during 2008/09 we provided training in one course on Good Complaint Handling and two courses on Effective Complaint Handling to staff from your authority.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

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

June 2009

Section 2: LGO developments

Introduction

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

Council First

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

Statement of reasons: consultation

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

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

Making Experiences Count (MEC)

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

Training in complaint handling

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

Adult Social Care Self-funding

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

Internal schools management

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

Further developments

I hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your local authority. We will keep you up to date through LGO Link as each development progresses but if there is anything you wish to discuss in the meantime please let me know.

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

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	2	5	7	8	3	5	38
Advice given	3	1	4	1	4	0	5	5	2	25
Forwarded to investigative team (resubmitted prematures)	2	3	2	0	2	1	5	2	5	22
Forwarded to investigative team (new)	4	6	6	4	2	2	8	8	4	44
Total	13	12	14	7	13	10	26	18	16	129

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	16	0	0	23	9	9	57

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	32.0
2007 / 2008	26	45.8
2006 / 2007	30	48.6

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