

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

**Calderdale Metropolitan
Borough 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.

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Section 1: Complaints about Calderdale Metropolitan Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Calderdale Metropolitan Borough Council.

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 telephone calls to our service has increased significantly since then to more than 3,000 a month. Our advisers now provide comprehensive information and advice to people who telephone, write or e-mail. It enables citizens to make informed decisions about whether to put their complaint to us.

This means that direct comparisons with some previous year-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 39 enquiries and complaints were made about your Council in 2008/09. Advice was given in five cases, 10 were complaints which your Council had not yet had a reasonable opportunity to respond to (known as premature complaints) and 24 were considered by my staff. The largest category of enquiries and complaints received was Planning and Building Control (14 or 36%), with 10 about Other issues. The remaining enquiries and complaints were spread over a variety of subject areas.

Complaint outcomes

Local settlements

We will often discontinue enquiries into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. The comparable figure for your authority was 35% (eight complaints).

Settlements were made on complaints across a range of issues. An Education complaint concerned the Council's failure to provide a child who had moved into its area with education for a period equivalent to almost one term. It agreed to pay £1,200 for investment in the child's education or school related activities and £250 to the mother for its unfair complaints handling and to apologise for the delay in providing education. It also agreed to a number of procedural improvements including:

- to carry out a review of all children who have moved into the Council's area within the last two years to establish how quickly education was provided and identify any improvements so school placements can be made more quickly;
- to ensure that the decisions of key education meetings are recorded along with reasons for those decisions;
- to review and improve the quality of recording on education files.

One investigation found that the Council delayed by more than seven years in pursuing alleged encroachment on its land by a home owner. The Council agreed to transfer the land for free and to pay the complainants' legal costs, which were over £6,700.

In considering a Building Control complaint, I found that the Council had failed to honour two previous settlements about repair works to walls in front of a house. The Council agreed to complete the repair works and pay £300.

Of the 26 decisions made on complaints about your Council, seven were on premature complaints which had been resubmitted to the Ombudsman because the person complaining was unhappy with the response they had received from the Council (26.9% of decisions). These seven complaints resulted in three local settlements, 42.9% of the decisions made on them. Given the small number of complaints involved it is difficult to draw any firm conclusions from these figures, but I would refer you to my comments about the Council's response to some complaints in the following section.

Other

A number of potential improvements to the Council's procedures were also identified during the year. One related to the need to clarify that parents can complain about Special Education Needs related matters where there is no statutory appeal. The Council agreed to give information about this to all school governing bodies as well as including the issue in training and amending its own guidance. Another complaint highlighted the need to ensure that a full written statement of a school's case that admitting more children would prejudice the education of those already admitted is sent to parents before the appeal hearing, rather than elements of the school's case being given orally, for the first time, at the appeal panel hearing.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our 13 written enquiries was 29.4 days, just outside the target of 28 days, and slower than the 25.9 days achieved last year. Looking at responses by category of complaint, planning and building control responses took an average of 43.2 days, children and family services took 43 days and the one education response took 34 days. These are areas where the Council might want to consider how to improve its response times. A prompt response to enquiries is important in helping us to provide a quality service to complainants.

My Assistant Ombudsman visited the Council and two of your liaison officers visited my office during the year. This kind of contact helps to improve our mutual understanding and ensure that our two organisations can work effectively. This was reflected when the Council began providing all correspondence replies by e-mail, which improves the speed with which responses are received and enables more flexible handling of the information.

A number of my investigators have commented that your Council sometimes gives the impression of responding defensively to complaints by trying to justify itself, rather than by responding positively and being willing to admit mistakes, learn lessons and provide remedies.

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 am pleased that during 2008/09 we provided training in Effective Complaint Handling to staff from your authority on two occasions. I have enclosed some information on the full range of courses available together with contact details for enquiries and any further 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.

**Mrs A Seex
Local Government Ombudsman
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YO30 5FZ**

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.

**Mrs A Seex
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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	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	0	0	2	4	1	3	10
Advice given	1	1	0	1	0	0	2	5
Forwarded to investigative team (resubmitted prematures)	0	0	1	0	2	0	2	5
Forwarded to investigative team (new)	1	2	2	3	8	0	3	19
Total	2	3	3	6	14	1	10	39

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	8	0	0	11	4	3	26

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	13	29.4
2007 / 2008	22	25.9
2006 / 2007	12	20.7

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