

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

Canterbury 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 Canterbury City Council 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.....	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 Canterbury City Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Canterbury 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.

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 dealt with 46 enquiries and complaints which were received about your Council in 2008/09. Of these 17 were referred to the Council as premature. Our Advice Team forwarded 22 complaints to the investigative team. Planning and building control generated the most contacts, with 10 of the 15 being forwarded for investigation. Housing generated nine queries, with two of these being forwarded for investigation.

Complaint outcomes

Reports

When we complete an investigation, we generally issue a report. This year we issued one report against your Council on a housing repairs matter.

The Council failed to find the cause of toilet blockages in the complainant's Council flat over a number of years. The Council blamed the blockages on the complainant, who suffered from poor mental health. It kept no written or digital records of CCTV surveys of the drains; wrongly told the complainant that the previous occupant of the flat had not had problems with the drains and threatened to charge the complainant to clear the blockages. By the time my investigation was complete, however, the Council had established that the drain was, in fact, broken and mended it.

The Council's actions affected the complainant's health and caused unnecessary distress and inconvenience. The Council paid the complainant £2,000 for its failings and also agreed to refit the bathroom in the flat. I am also pleased to note that the Council now keeps tapes of CCTV inspections.

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 I decided against your authority five (or 22.7% of decided complaints within my jurisdiction) resulted in local settlements being reached. I asked you to pay compensation totalling £350 for these.

Housing

I reached local settlements on two housing allocations complaints. In the first case, the complainants accepted a flat in a sheltered scheme on the understanding that they would be offered the first larger flat that became available: one of the complainants had medical equipment that necessitated a larger bedroom than the one in the flat they had accepted. The Warden of the sheltered scheme confirmed that the complainants had been given to believe that they would be moved. But, when another flat became available, the Council refused to give it to the complainants, saying they were not on the waiting list and had no housing need. However, I am pleased that the Council accepted that the complainants' expectations had been raised and agreed to exercise its discretion to offer them the next available larger flat in the scheme.

The second case was about the Council's handling of a housing application. Although there was little evidence of substantive fault by the Council, it appeared that it may not have dealt with a request for a review of the band the complainant's housing application was placed in. The Council dealt with the review within two weeks of this being pointed out and this resulted in the complainant's application being placed in a higher band. The Council also, without prompting, reassessed all other housing applicants living in similar situations to the complainant and who were in the same band.

Noise Nuisance

I reached a local settlement regarding noise and nuisance being caused by the use of a playground. In this case, it was difficult to assess the complaint as the use of the playground had reduced as a result of colder weather. However, the Council agreed to fit noise recording equipment in the complainant's home in the event of an increase in noise and nuisance once the weather became warmer.

Planning

I reached a local settlement in a case involving a planning application for the conversion of a barn into a house. In this case, the report to the Development Control Committee failed to mention relevant policies. The Committee delegated its authority to approve the application to officers, on condition that an ecological survey be done and mitigation measures for certain species of wildlife were carried out. Case law says that such surveys and measures have to be done *before* approval of an application is given, and that it is not sufficient to attach a condition to the approval requiring that they be done. Officers were aware of this, but approved the application anyway. Approval was, in any event, given contrary to the Committee's instructions. In addition the decision notice did not comply with Government Regulations. As a result, the Council reviewed how it applies its policy on nature conservation and protected species in the light of the relevant case law, and reported the results to Committee; it gave training to officers on these issues and it now makes its decision notices more explicit. It also gave the complainant £100 compensation.

Land

The final local settlement was reached in a complaint about land. The complainant alleged that the Council had failed to deal with breaches of planning approval and breaches of an agricultural tenancy for a farm rented from the Council by his neighbour. Although the tenancy issues were not for me, and the planning issues appeared to have been dealt with properly, there was evidence that the relevant departments had failed to liaise with each other, and that the Council had failed to let the complainant know that a planned meeting would not be taking place. In this case, officers in the Estates Department were reminded of the need to pass on correspondence to the Planning Department where it appears there may be issues that are best dealt with there. Officers from both departments also made a joint unannounced visit to the farm within six weeks of this being recommended, to see if there were any planning or tenancy breaches. The Council also agreed to pay the complainant £250 compensation.

Other Decisions

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

Sometimes, though the Council may be at fault, I use my discretion not to pursue an investigation. I might do this where, for example, there is no significant injustice to the complainant. This year, I closed 11 cases using my discretion.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was 27.8 days. This is slightly longer than last year, but still within the target time of 28 days.

During the year I decided seven complaints that had previously been referred to your Council and had then been resubmitted. I decided not to pursue four of these. But I settled two (those concerning noise from a playground and the conversion of a barn). The last was the complaint about a broken drain that I reported on. This is a small sample but the Council may wish to consider if there is more it can do to resolve complaints through its own procedure.

Against this, however, the Council in general responds very positively to any recommendations made on complaints. There have also been examples, such as in one of the housing allocations cases and the planning applications case referred to above, where the Council did more than I recommended. This is very welcome and something I commend the Council for.

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	Children and family services	Housing	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	4	3	5	1	4	17
Advice given	1	3	0	0	0	3	7
Forwarded to investigative team (resubmitted prematures)	0	0	0	4	0	3	7
Forwarded to investigative team (new)	0	2	0	6	0	7	15
Total	1	9	3	15	1	17	46

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	1	5	0	0	5	11	6	28

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	9	27.8
2007 / 2008	16	24.9
2006 / 2007	19	30.1

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