

The Local Government Ombudsman's Annual Review

London Borough of Haringey

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 the London Borough of Haringey 2008/09

Introduction

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

The largest proportion of the 235 enquiries and complaints received by our Advice Team this year concerned housing (90). Transport and highways (which includes parking) received 33 enquiries and complaints. Other service areas for which enquiries and complaints reached double figures were local taxation (22), benefits (20), and planning and building control (19).

Around four in ten of these enquiries and complaints were passed on to our investigation team. The rest were either considered to be premature and sent back to the Council or were the subject of advice.

Housing comprised the highest number of complaints (39) forwarded to the investigation team. Half of these were about disrepair and the remainder were fairly evenly spread across homelessness, allocations, sales/leaseholds and tenancy management.

All but one of the transport and highways complaints passed for investigation concerned parking. Other service areas which were the subject of complaints passed for investigation included planning and building control (9), local taxation (8), benefits (6) education (5), adult care (4), antisocial behaviour (4), children and family services (3) and environmental health (3).

Complaint outcomes

When we complete an investigation, we generally issue a report. This year we issued one report about homelessness. This complaint raised significant issues about the Councils' interpretation of Sections 183, 184 and 188 of the Housing Act 1996, and in particular what should trigger a duty to secure interim accommodation for a person, in this case a mother and child, who was presenting herself as homeless. Although it was not my role to offer a definitive legal interpretation of the homelessness legislation or to question the Council's reasonable interpretation of that legislation, I found that there was a lack of clarity in the terminology that the Council had used in dealing with this case, and a lack of clear records, especially records of what decisions were being taken, when, or under which provisions of the Housing Act. I concluded that these failings amounted to maladministration. The Council agreed to review its guidance to officers in the light of the Homelessness Code of Guidance 2006; and to address training needs in respect of clear and accurate record keeping about homelessness applications. The complainant was paid £250 in compensation for her time and trouble in pursuing the complaint.

A 'local settlement' is a complaint where, during the course of our investigation, the Council has taken or agreed to take some action which we consider is a satisfactory response to the complaint. This can include such things as reconsideration of a decision, repairs carried out, policies reviewed, benefit paid, an apology or other action. In addition, I may ask the Council to pay compensation. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints within our jurisdiction I decided against your authority, 52% were local settlements and, including the one report issued, you agreed to pay compensation of over £35,000 in total (although over half the compensation paid was for one complaint about Special Educational Needs.)

Sometimes, although 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 15 cases using my discretion.

There were 33 complaints where I found no or insufficient evidence of fault by the Council to justify further investigation. There were also 17 complaints which fell outside my jurisdiction.

Complaints by service area

Housing

Disrepair

I decided 20 complaints about council house repairs and three quarters of these were local settlements. In addition to ensuring that any outstanding works were done, the Council paid over £4,500 in compensation for housing disrepair complaints.

Most of these complaints involved delay in completing repairs. In one case a complainant was left to live with damp walls caused by a leaking heating pipe for 13 months longer than should have been necessary; the Council paid £1,650 in compensation. In another case the Council's contractor claimed to have repaired a leaking radiator when the repair had not been done and the radiator continued to leak and damage the complainant's possessions; £750 was paid in compensation.

One complainant was left without heating for over nine months and received £730 in compensation. In another case £500 was paid to settle a complaint relating to over a year's delay in repairing a bathroom window.

In one complaint where the Council took six months longer than it should to progress repairs to plaster cracks in the complainant's living room, the disrepair itself was relatively minor but the Council made matters worse by losing emails and sending an inappropriately worded letter to the complainant; the Council paid £300.

Housing allocations

I decided seven complaints about the allocation of housing as local settlements.

In one case a complainant who had been accepted for an urgent move because of fear of violence was not offered temporary accommodation away from the locality for over a year. Council officers believed that the complainant would not accept a move to areas other than a few restricted areas where housing was in high demand. However there was no evidence of this on file, and when an offer was made the complainant accepted it despite it not being in his preferred areas. As well as agreeing to pay £2,300 in compensation, the Council has told me that it is reorganising its service and believes that changes to its lettings policy will ensure quicker resolution of housing problems in future. I have not yet seen your revised lettings policy and look forward to seeing a copy when your review has been completed.

One complainant, who was severely disabled and unable to manage in the unadapted flat which she owned, applied for supported housing but was refused for various reasons including that the Council considered she was too young (under 60) and could afford to buy a suitable home for herself if she sold her existing flat. Following my investigation of this complaint the Council agreed to place the complainant in supported housing and pay her £1,000 in recognition of the delay in reaching this decision.

Three complaints were about delays in assessing applications for additional priority for medical needs and/or vulnerability. A total of £850 compensation was paid for these three complaints. These complaints also highlighted some poor record keeping practices including, in one case, failure to record why a complainant on a shortlist had been passed over when allocating a property.

The other settlements involved the Council backdating a transfer application and paying compensation for the way it dealt with what the complainant thought was a temporary transfer from a secure tenancy to allow repairs to be done; and a case where the Council failed to assess an application from the complainant who was applying for a move to another borough.

Homelessness

Other than the report mentioned earlier in this review, I decided four complaints about homelessness. One resulted in a local settlement. There are legal rights to appeal to court about many decisions about homelessness and such complaints are usually outside my jurisdiction, but in this complaint there was delay in dealing with a fresh homelessness application where the applicant's situation had changed for the worse, which is a matter I could investigate. There was also a failure to assist the complainant with storage of his possessions. Although I could not conclude that the Council's delay had caused injustice, the Council paid compensation of £250 for the distress and inconvenience caused to the complainant by the loss of his possessions. I did not find any fault in the other three complaints, one of which was outside my jurisdiction.

Other housing complaints

One complaint about the Council's complaints process itself highlighted an inaccuracy in the Council's complaints leaflet which has subsequently been corrected when the leaflet was reprinted. In another case the Council failed to take care of a complainant's washing machine following his eviction; £250 was paid in compensation.

One complaint from a leaseholder involved door bells on a communal door not working, causing problems for visitors and delivery of post. The cost of repairing the door system was prohibitive but a solution was eventually reached by putting up a sign redirecting visitors to another door and providing the Royal Mail with a key fob.

Local taxation

I decided 11 complaints about local taxation, of which six resulted in local settlements. Three complaints (including one which did not lead to a local settlement) were about bailiffs levying distress against cars that were not owned by the complainant and then wrongly charging fees for a levy. In each case the Council agreed to withdraw the wrongly charged fees. The Council agreed to review this issue with its bailiffs to ensure that their practices took account of the settlements in these complaints.

In one complaint the Council's bailiffs pursued the complainant in 2008 for Council Tax arrears that arose between 1994 and 1997, despite having had no contact with him for 10 years. The Council said that the complainant had given an incorrect forwarding address in 1997, but agreed to write off the debt on the basis that there had been such a long time without any contact.

In a complicated complaint about billing for business rates on multiple businesses owned by one complainant, the Council incorrectly billed the complainant and wrongly obtained a summons and instructed bailiffs. The Council had failed to answer some letters. The Council had already offered compensation of £200 but this was increased to £350 after my investigation in line with my guidance on remedies; in agreeing this figure some allowance was made for the fact that it was a complex case and the complainant had not been helpful in trying to resolve this matter.

One of the settled complaints arose because the Council billed a complainant for Council Tax for a property he had never lived at and then summonsed him even after he had told the Council this. In addition to cancelling the summons and the wrong account, the Council paid modest compensation.

Benefits

In 2008/09 I decided 11 complaints about benefits, mostly housing benefit but some also involved council tax benefit. Two of these gave rise to local settlements.

One was about a Housing and Council Tax Benefit claim having been cancelled in 2006 which was resolved when, following my intervention and that of the local Citizen's Advice Bureau, the Council reassessed the benefits from 2005 and agreed to write off a small amount of Council Tax debt.

In the another case the Council wrongly sent a decision about an overpayment of benefit to the complainant's old address and then failed to tell the Appeal Tribunal that this was the reason her appeal was made late. The appeal was refused as out of time and the Council instructed bailiffs to start recovery action. The complaint was settled by the Council paying £500, and writing to the Tribunal, which then accepted the case.

Adult care services

I decided two complaints about adult care services as local settlements. In the first, the Council had delayed for at least 18 months in making payments for care and educational provision for a young adult (daughter of the complainant), building up a debt of over £80,000 to the provider which caused the mother to worry that her daughter's placement might be jeopardised; there was also poor communication with the mother about her daughter's care reviews. The Council brought the payments up to date and paid £400 in compensation.

The second complaint concerned the failure to follow a risk management plan to contact the complainant when, in the middle of one night, her daughter (who has mental health problems) left a respite crisis unit run by the Council. As a result it took longer than it might have before the daughter was found in a distressed state and admitted to psychiatric hospital. The Council had offered £250 to the mother as compensation, but increased this to £500. Although it did not agree with my view that the daughter had been caused injustice the Council agreed to pay compensation to her as a goodwill gesture.

Children and family services

A complainant alleged that the Council had failed to properly investigate her allegation that her child's treatment in school amounted to child abuse. My investigation was not about the treatment of the child in the school which is outside my jurisdiction, only the Council's failure to respond to the complaint about the actions of its educational social worker. The Council provided a response to the complaint and paid a small amount of compensation in recognition of the time and trouble caused to the complainant by its delay in doing so.

Education

Special Educational Needs

I settled one complaint about both special educational needs and children services, where the Council had decided in 2001 that under section 17 of the Children Act 1989 the complainant should be offered a residential therapeutic placement as a child in need. But it did not make a placement until 2005, when it was done to implement a statement of special educational needs rather than under section 17 of the 1989 Act. As a result, the child was not only deprived of education in a suitable therapeutic environment for a number of years, but also would have lost the opportunity to receive leaving care services under the Children (Leaving Care) Act 2000. As a remedy the Council agreed to pay £18,300 and to offer the complainant the services that he would have received under the 2000 Act, including assistance with future employment, education or training if relevant.

Planning and building control

Enforcement

There were two complaints about planning enforcement that resulted in local settlements. In one case the Council delayed in taking action in relation to a satellite dish on a neighbouring property and failed to keep the complainant informed about what it was doing; £50 compensation was agreed. In the other, the Council told the complainant, that any new extension to his neighbour's house would be subject to an existing enforcement notice, but failed to make him aware that any enforcement action would not follow automatically but would be subject to the Council deciding whether such action was expedient, and the outcome of negotiations. The injustice to the complainant took into account a long history of concerns about planning breaches by his neighbour, and was that the Council had falsely raised his expectations. So the Council agreed to pay him compensation of £250.

Planning Applications

In a complaint about amended plans for a neighbour's new rear extension the Council failed to consider the effect of a large new corner window and how it would overlook the complainant's property including her bedroom windows. The planning report inaccurately referred to screening where there was none between the window and the complainant's house. The complainant was paid compensation of £1,000.

Transport and Highways

There were six local settlements of transport and highways complaints, all about parking.

One involved delay in dealing with correspondence; £50 compensation was paid. In another the Council failed to record a letter from the complainant which resulted in him losing his right to appeal; the Council readily agreed to cancel the penalty and pay compensation. However it then failed to take the agreed action resulting in the complainant receiving an order and costs from the court. The Council withdrew the action and costs and paid a further £25.

One complaint involved a dispute about whether yellow lines that the complainant had allegedly parked on were visible. This dispute was outside my jurisdiction as the complainant had appealed against the penalty. But although the Council withdrew from the appeal as it had no photographic evidence, the complainant came to me because he felt his distress and inconvenience should be recognised. The Council paid him £150 to settle the complaint.

In one case the Council instructed bailiffs to take action to recover a parking penalty despite having been asked to cancel the notice to owner and charge certificate by the Traffic Enforcement Centre; to settle the complaint the penalty charge was withdrawn and £50 compensation paid.

There were two further complaints (similar to one mentioned in last year's Annual Letter) about the Council's failure to follow its policy to contact the keeper of an abandoned vehicle, where it has the keeper's contact details, before removing the vehicle for destruction. One complainant had his van, which had been vandalised, removed and destroyed by the Council. The Council had the keeper's details but did not follow its policy of contacting him so that he could decide whether to pay to retrieve and mend the van rather than having it destroyed. The Council paid £200 compensation. In another similar complaint the Council agreed to pay £100. In the light of these complaints the Council's abandoned vehicles policy has been rewritten. The Council kindly sent me a draft copy of its new policy in April this year so that my office could comment on it.

Other

Other local settlements covered a variety of subjects.

Antisocial behaviour

This complaint involved a long running complaint about antisocial behaviour where the complainant thought the Council was not dealing with the matter properly and the Council decided the complainant was being vexatious, and banned him from making complaints for a year. The way that the Council had dealt with the complainant was not reasonable, or in line with its policy about vexatious complainants. The complaint was settled by the Council agreeing to meet with the complainant to consider his reports of new antisocial behaviour and take further evidence.

Contracts and business matters

A complainant who runs a small residential care home had been asking since 2004 for the fees to be reviewed by the Council in line with its placement agreement with her. The Council had not responded. The complaint was settled by the Council agreeing to consider her request for increased fees, and to backdate its decision; it also paid £250 to compensate for the delay.

Others

One complaint concerned delay by the Council in dealing with complaints about overhanging trees, dumped rubbish and vermin at a neighbouring property. The Council agreed to take action and pay the complainant £150.

Another complainant who was complaining about rudeness by a Council officer received an apology, but was also told that he was subject to a policy decision by the Council to limit contact with him. Subsequently this was found not to be the case, but the confusion had unnecessarily prolonged the complaint and the complainant was paid £25 for his time and trouble.

Liaison with the Local Government Ombudsman

The Council took an average of 17.2 days to respond to enquiries from my office. This is an improvement on your already excellent response times of previous years. My Investigators have noted occasions where the Council's has made a quick and helpful response; but on other occasions it has taken time and protracted discussion to reach a settlement.

An Assistant Ombudsman met with the Council's Feedback Team Manager, in December 2008. Much of the discussion at that meeting was about our approach, and that of the Council, to assessing injustice and remedies, including compensation. One of the suggestions arising from this was that both parties might provide more explanation about how proposed remedies, and particularly suggestions about compensation, had been reached. I hope the exchange of views, and subsequent correspondence about this matter has proved helpful; and I would be interested to know whether you feel there is anything else we could do to help your officers gain a better understanding of why we are proposing particular remedies to settle complaints?

I was pleased that two of your officers attended our seminar for link officers in March and hope that they found the day helpful.

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.

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	1	4	1	38	9	11	10	8	9	91
Advice given	0	2	2	13	5	3	1	12	7	45
Forwarded to investigative team (resubmitted prematures)	1	1	0	6	2	4	0	3	4	21
Forwarded to investigative team (new)	3	2	5	33	4	4	8	10	9	78
Total	5	9	8	90	20	22	19	33	29	235

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	1	53	0	0	33	15	17	119

Response times	FIRST ENQUIRIES				
·	No. of First Enquiries	Avg no. of days to respond			
1/04/2008 / 31/03/2009	76	17.2			
2007 / 2008	110	18.4			
2006 / 2007	63	18.4			

Average local authority response times 01/04/2008 to 31/03/2009

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