

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

**The London Borough of  
Hillingdon  
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 Hillingdon

## Council 2008/09

### Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Hillingdon. 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 72 enquiries about matters concerning your Council, the bulk of which concerned housing (29) or planning and building control (23). These areas also comprised the majority of the 36 complaints forwarded to the investigative team (10 complaints in each case).

### Complaint outcomes

#### Reports

When we complete an investigation we issue a report. This year we issued one report against your Council, which was about an elderly person who, prior to admission to hospital, received a home care package. Concerns had been raised about the quality of care received. After discharge from hospital, no proper assessment of needs was undertaken and the person was placed in a residential home against their own and the family's wishes.

While in the home, the Council assessed the placement as permanent rather than temporary and, as a result excessive charges were raised. I found that there had been fault by your Council causing injustice. The Council agreed to:-

- Improve the monitoring of home care packages
- Improve the assessments of residents on discharge from hospital
- Refund the excessive residential care charges of £11,800.64 levied on the basis of the wrong assessment
- Pay total compensation of £1,050 to the family.

The changes made as a result of this report have been significant and include the creation of five new contract monitoring posts; training for relevant staff; referral of cases to a panel to ensure quality and consistency; and a quarterly audit. I am grateful for the positive response to the issues raised by the investigation of this complaint.

## **Local settlements**

### ***General***

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 37 complaints we decided against your authority, 12 were decided by local settlement. This was 32% of all decisions and 40% of the decisions on complaints within my jurisdiction. A total of £4,512 was paid in compensation as part of local settlements.

### ***Local Settlements by Service Area***

#### ***Planning and Building Control***

There were five complaints in this area which were resolved by local settlement. One arose from delay in taking enforcement action against a used car business operating from residential premises resulting in a large number of vehicles being parked in the street. The Council was slow to take action during a period when the level of use was causing obstruction and nuisance. The level of commercial activity subsequently fell and was not considered to be a change from the authorised use. To address the injustice to neighbours caused by the delay in acting on the nuisance when it occurred, a payment of £200 was made to each of the two neighbours who had suffered.

In another case, an application for building regulation approval was submitted to the Council. The plans showed development which enquiries would have shown required planning permission. But the plans were not passed on to the planning department and the complainant was not specifically told that planning permission was also necessary. They commenced works. Later they were warned the works were unauthorised but nevertheless continued to complete the development. The Council took action against the unauthorised development. I could not say what would have happened if the complainants had explicitly been told planning permission was required earlier, but in view of the uncertainty, I asked the Council to pay the complainant £250 compensation.

Delay in determining an application for a nearby property led to a complaint that this had prevented the sale of the complainant's property, causing financial loss. I did not see that such a loss could be established, but felt the Council's response to the concerns raised was inadequate and the Council agreed to pay £50 compensation to recognise this.

A further complaint was about a restrictive covenant placed on land by the Council, which prevented building being carried out without agreement. The complainant's neighbour had constructed an outbuilding, which did not require planning permission but which the complainant believed breached the covenant. The Council took legal advice and, after nearly two years, concluded that the covenant was not enforceable because its original purpose was no longer relevant, so the complainant was not affected materially. Nevertheless, they had been caused unnecessary uncertainty by the delay, for which your Council agreed to pay the complainant £250 as compensation.

The final planning settlement was for a complainant who had objected to a planning application for new housing near his home. That application was refused but a new application was submitted and approved. It was alleged that there was little difference between the two applications and so the approval was unreasonable. The Council said that there were significant differences, one of which was the removal of dormer windows to the front about which the complainant had previously voiced concerns. Although I queried matters because the approved plans appeared still to show dormer windows to the front, I was assured that these were now rooflights. The complaint was closed because the Council's actions seemed reasonable. During construction the complainant said that dormer windows were being installed, and the Council gave assurances that these breached the planning permission and would not be allowed. But it was subsequently established that they were shown in the approved plans, so no enforcement action could be taken. The impact on the complainant was not significant but compensation of £100 was paid to recognise the annoyance caused by the inaccurate information and assurances given. It is of significant concern that the Council did not appear to be aware of the nature of the development it had agreed.

### *Housing*

There were three settlements of housing complaints. In the first, a vulnerable 17 year old who had previously been in care and was homeless approached the Council. It failed to deal properly with requests for a move to another area (where they attended college and had family), leaving them in unsuitable accommodation, until they managed to find alternative housing through their own efforts. The Council agreed to pay the complainant £700 to remedy the injustice caused, and to amend its procedures to trigger an assessment when a homeless person requests a move out of the area. Staff were reminded about their responsibilities.

In another case, no proper consideration was given to the requirements of a Council tenant who was moving home. The new property was not in a suitable condition to be re-let and the tenant was only given five days in which to move in, which they could not achieve. This was particularly inadequate given the complainant's age and disabilities, and it led to them being liable for rent on two properties and, in turn, to rent arrears. It was agreed that a period of four weeks to move would have been appropriate and a rent rebate for this period was paid as compensation. It was also noted that the additional time could have been used to carry out works to make the property suitable before the complainant moved in. A review of procedures was also undertaken.

The final case here involved someone who was 'homeless at home' with their mother but who had been served with a notice to quit. The Council's delay caused avoidable distress and inconvenience, for which the Council agreed to pay £100.

### *Transport and highways*

The two settlements here concerned parking problems associated with a major development under construction, where the Council had not replied to the complainant so I ensured this was done, and a rights of way complaint. With this, a boundary wall had been removed by a neighbour, who was now using the complainant's drive. The Council resolved this by erecting a chain link fence. It also paid the complainant £50 for their time and trouble and costs incurred.

### *Other local settlements*

There were two other settlements. A substantial settlement was reached on a complex case about foster care which also involved another council. It is not appropriate to go into detail here, but a young person was removed prematurely from their care, against the child's wishes. Your Council agreed to pay £2,250 in compensation. The good quality of your Council's investigation within the statutory social services complaints procedure was noted by my staff.

The final settlement involved housing benefit. There was delay in reassessing a claimant's entitlement. This case was concluded with the Council paying the complainant an additional £50 to recognise the injustice caused.

### **Other decisions**

Sometimes, though the Council may be at fault, I use my discretion not to pursue an investigation because there is no significant injustice to the complainant. This year I closed four cases using this reason. There were a further eight complaints where I found no or insufficient evidence of fault by the Council to justify further investigation, and seven were outside my jurisdiction to investigate. One example was a complaint about an enforcement notice served on the complainant who was building a house without planning permission. There is a right of appeal against the notice through the Planning Inspectorate and I will not normally consider a complaint where such a right of appeal exists. I therefore considered that the matter was not within my jurisdiction.

### **Liaison with the Local Government Ombudsman**

The average time taken by the Council to reply to our written enquiries was 19.9 days, which was an improvement on last year's commendable response time. In only one case was our target not met; this appears to have been because the service department working with the complainant thought that the issue had been resolved. I am grateful for the otherwise very timely responses we received.

### **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**

There were no service areas where the number of complaints received might be an indicator of a particular problem. On the contrary, I received only one complaint about school admissions, one about Housing Benefit and two about parking. These are service areas which can prompt large numbers of complaints. It seems reasonable to assume that either the quality of delivery or the competence of complaint handling - or a combination of both - has led to so few complaints being made to me.

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  
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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 propose 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	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	2	1	7	1	3	2	2	2	21
Advice given	1	2	3	4	0	1	3	1	0	15
Forwarded to investigative team (resubmitted prematures)	1	1	1	2	0	0	2	1	1	9
Forwarded to investigative team (new)	0	0	2	8	1	2	8	4	2	27
<b>Total</b>	<b>3</b>	<b>5</b>	<b>7</b>	<b>21</b>	<b>2</b>	<b>6</b>	<b>15</b>	<b>8</b>	<b>5</b>	<b>72</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	1	12	0	0	8	9	7	37

**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	22	19.9
2007 / 2008	29	26.0
2006 / 2007	24	29.7

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