

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

Isle of Wight 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 Isle of Wight Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Isle of Wight 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 received 72 complaints and enquiries during the year. Of these 26 were about planning-related matters, 10 about education issues and 10 about transport and highways, five were about housing matters, two each in adult care services and public finance categories, and the remaining 17 were spread across the Council's other service areas.

We treated 16 of those complaints and enquiries as premature and in a further nine cases advice was given (usually to make a complaint direct to the Council). The remaining complaints were forwarded to the investigative team either as new complaints (31) or as premature complaints that had been resubmitted (16).

Complaint outcomes

I decided 48 complaints against the Council during the year. In 22 of those cases (46%) I found no evidence of maladministration. I used my discretion not to investigate a further 13 complaints (27%). Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant. In four cases (which represents only 8% of all decisions made in the year) I took the view that the matters complained about were outside my jurisdiction and so they were not investigated.

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 we decided against your authority nine, or 19%, were local settlements.

Children and Family Services

Three complaints in this category were settled locally. In one case a meeting was wrongly convened under child protection procedures and the Council agreed to review the record of the meeting, apologise and make a payment of £350 to the complainants in recognition of the distress and time and trouble they were caused. In another case flawed liaison with another local authority caused the complainants avoidable distress, time and trouble and each authority paid them £250 in recognition of the failings.

In the third case there was significant delay, and planning and communication with the complainant was seriously flawed, leading to delay in providing services to her son, who has Asperger's syndrome, causing considerable anxiety. Your Council agreed to pay the complainant £2000 and her son £500, and to review its procedures in children's services and the complaints system.

Planning matters

Three complaints about planning applications resulted in local settlements. In one case the Council failed to respond to a complaint about the determination of an application but agreed to recognise the time and trouble to which the complainant was put by making a payment of £200; my investigation was discontinued because the underlying events did not result in any additional injustice to the complainant. In another case there was significant avoidable delay in putting a complaint through the complaints procedure, and a payment of £100 was sufficient to recognise the unnecessary frustration experienced by the complainant.

The third was about failure to notify the complainant about a planning application as well as delay and lack of response to the complaint made direct to the Council. In that case a payment of £350 was appropriate and your Council agreed to make it.

Planning services are subject to the Council's complaints procedure just as much as any other service and you may wish to review how the procedure is operating in that service area as a result of these complaints.

Other settlements

Three other cases in different subject categories were settled locally. In one case the Council had failed to control the use of a jetwash facility or ensure that measures were taken to mitigate its impact on the complainant. It agreed to seek a retrospective planning application and agreement for the facility not to be used until a canopy and screen were erected to prevent spray entering the complainant's garden. It also agreed to pay him £350 in recognition of the impact on his amenity, and his time and trouble in pursuing a complaint.

In a benefits administration case the Council failed to process emails from a claimant which led to a delay in issuing a housing benefit payment, during which time the claimant was caused distress and had to take a loan to cover his rent. The Council agreed to pay him £100 in recognition of the effect of its actions and of his time and trouble in pursuing his complaint.

The Council caused unacceptable delay in implementing Special Educational Needs (SEN) procedures in another case, resulting in a failure to provide services for a child with special needs over a long period of time. I welcome its willingness to settle this case by making payments of £3,000 to be used for the benefit of the child's education to help catch up, and £1,000 to the child's parent to recognise the distress, anxiety, time and trouble it caused.

The total amount paid by the Council during the year in settlement of nine complaints to my office was £8,200. My officers continue to appreciate the readiness of your staff to consider taking early action to resolve complaints.

Finally, I wish to note that in two of the above cases the Council has been willing to work with mediators from my office to improve working relationships between it and the complainants in view of the need for there to be ongoing contact between them for service provision. Some constructive agreements have been reached, and I welcome the Council's co-operation with this new aspect of our work.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 28 complaints during the year. Your Council's average response time of almost 39 days is longer than last year's time of 33 days and remains well outside the 28 days requested. I note that responses to enquiries on some complaints in most service areas take significantly longer than the average, although enquiries about planning applications and enforcement amount to almost half the total and took an average of almost 49 days. Three of these cases took 70, 79 and 119 days respectively, which is, frankly, unacceptable. I should be grateful if you will review your procedures to ensure that whenever possible responses are sent within 28 days, and I hope to see an improvement in the average times over the year to come.

Training in complaint handling

I am pleased that during 2008/09 we provided training in Effective Complaint Handling to staff from your authority who work in social care.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings. In view of my observations on complaint handling and response times, particularly in your planning services, you may wish to consider whether these would be of additional benefit in improving your Council's performance.

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.

Appendix 2: Local Authority Report - Isle of Wight C

For the period ending - 31/03/2009

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	0	1	2	0	2	6	3	1	16
Advice given	0	0	1	0	0	0	4	2	2	9
Forwarded to investigative team (resubmitted prematures)	1	0	4	1	1	0	3	3	3	16
Forwarded to investigative team (new)	0	1	4	2	0	0	13	2	9	31
Total	2	1	10	5	1	2	26	10	15	72

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	9	0	0	22	13	4	48

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	28	38.8
2007 / 2008	16	33.1
2006 / 2007	20	34.2

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