

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

Luton Borough Council

**for the year ended
31 March 2009**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

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Section 1: Complaints about Luton Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Luton Borough 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. These were spread across the Council services with 13 about housing services, nine about children and family services, nine about benefits, eight about planning and building control, seven about education, six about public finance (including council tax), four about adult care services and two about transport and highways. The remaining 14 received were in the 'Other' category which covers areas such as antisocial behaviour.

We treated 28 complaints as premature and advice was given in a further 12 (usually to make a complaint direct to the Council). The 32 remaining complaints were referred to the investigative teams as new complaints to be considered or premature complaints that had been resubmitted.

Complaint outcomes

I decided 32 complaints against the Council during the year. In 13 cases I found no evidence of maladministration. In a further six I used my discretion not to investigate the complaint further. Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant. I decided that the matters raised in the remaining seven complaints were outside my jurisdiction so were not investigated.

Reports

When we complete an investigation, we generally issue a report. This year we issued three reports against the Council.

In one case the Council's Adult Services failed to provide appropriate services to meet the needs of a profoundly disabled person. There was a three-year delay in providing necessary equipment, policies were not explained to the family or put into practice, the Council's approach was not person-centred, it failed to recognise the family were complaining so there was a significant delay in completing an investigation and the Council also took a year to decide if the complainant's property could be adapted before ruling out that possibility. An inappropriate referral under the Council's protection of vulnerable adults procedure was also made. I recommended that the Council made a payment of £15000 to compensate the family for its failings, review its policies and procedures and provide appropriate staff training.

In another case the Council delayed unreasonably in implementing a recommendation that further assessment and therapy was needed for a looked-after child in the event that she/he continued to display inappropriate behaviour. The Council delayed by three years in arranging an assessment and therapy after the first reported incident. I also found that the Council delayed unreasonably in assessing the preferred school of the child's foster parents until the Council responsible for the child's education had issued the statement of Special Educational Needs. I recommended that the Council make a payment of £3000 to recognise the distress and time and trouble caused to the family.

In the final case the Council granted consent for a vehicular access to the complainants' property without properly considering the legal and safety issues involved. It then withdrew the consent after the complainants had committed to extensive landscaping works to accommodate the vehicular access. I recommended that the Council made a payment of £30,320 to compensate them for the unnecessary costs incurred.

I am pleased to note that the Council agreed to comply with my recommendations in all three cases.

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, three were settled locally.

In one case the Council delayed by 13 months in acknowledging the complainant's request for his/her care files and delayed in locating the files. The files were then passed to the police to investigate allegations made by the complainant about his/her time in care but the Council failed to monitor the position and keep the complainant informed. The Council agreed to make a payment of £250 to compensate the complainant for the uncertainty and time and trouble caused.

In another case the Council used the complainants' material in a successful bid to the European Regional Development Fund without acknowledgement so they lost recognition for the work. The Council then failed to be open about its reasons for not acknowledging the work. The complaint was settled by the Council publicly acknowledging the complainants' contribution to the successful bid.

In the final case the Council wrongly issued Council Tax demands, obtained Liability Orders and passed the debt to the bailiffs for properties the complainant did not have an interest in. The

Council agreed to make a payment of £402.88 to reimburse the complainant's legal costs in making representations to the Council and bailiffs.

The Council has paid a total of £48,972.88 compensation this year for the cases I have reported on and for those settled locally.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 24 complaints during the year. Your Council's average response time was 35 days which is still substantially outside the 28 days requested. Nevertheless, this represents a welcome improvement on last year's average of 47.7 days and I trust the Council will continue its efforts to improve in this area.

I am pleased to note that an officer of the Council attended our seminar for local authority complaints officers in November 2008 and I hope they found it helpful and informative.

Training in complaint handling

I am pleased that during 2008/09 we provided training in Effective Complaint Handling to staff from your authority. We have extended the range of courses we provide and 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	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	0	1	2	8	7	4	3	1	2	28
Advice given	2	0	1	1	0	0	0	1	7	12
Forwarded to investigative team (resubmitted prematures)	0	1	0	2	1	1	2	0	4	11
Forwarded to investigative team (new)	2	7	4	2	1	1	3	0	1	21
Total	4	9	7	13	9	6	8	2	14	72

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	3	3	0	0	13	6	7	32

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	24	35.1
2007 / 2008	26	47.7
2006 / 2007	22	31.0

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