

**The Local Government Ombudsman's
Annual Review
Manchester City Council
for the year ended
31 March 2009**

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

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Section 1: Complaints about Manchester City Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Manchester City Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

Our Advice Team received 183 complaints and enquiries during the year. These were spread across the Council's services with 44 about housing, 15 about transport and highways, 13 about children and family services, 12 about education, 12 about public finance (including council tax), 12 about benefits, 10 about planning and building control and nine about adult care services. The remaining 56 were in the 'other' category which covers areas such as antisocial behaviour and land.

We treated 65 complaints and enquiries received as premature and advice was given in a further 31 (usually to make a complaint direct to the Council). The 87 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 80 complaints against the Council during the year. In 18 I found no evidence of maladministration. In a further 18 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 that warrants my pursuing the matter further. I decided that the matters raised in 17 other complaints were outside my jurisdiction so 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, 27 (29%) were locally settled. In 10 of these cases financial compensation was paid totalling £6950.

Antisocial behaviour

Two cases involved the Council's response to antisocial behaviour. In one the Council wrongly gave the complainant the impression that action could be taken against her neighbour despite insufficient evidence to support the allegations. The Council apologised for its errors and agreed to make a compensation payment of £250. It also agreed to meet with the complainant in the presence of an independent organisation to find a way forward for dealing with future complaints. In another case the Council similarly agreed to meet with the complainants.

Benefits

There were two cases involving faults by the Council in administering housing or council tax benefit. In one the Council apologised and made a compensation payment of £50 for the distress, time and trouble caused to the complainant by the Council wrongly suspending his housing benefit claim. In the other complaint the Council identified in response to my enquiries that it had missed some payments due to the complainant, some going back a number of years. It agreed to make these payments as settlement of the complaint.

Environmental health

In one case the Council's pest control service undertook to treat an infestation it was not statutorily obliged to deal with but delayed in doing so. The Council treated and eradicated the infestation without charging the complainant by way of settling the complaint.

Housing

Five settlements were reached where there had been failings in housing services. Two of these concerned housing repairs. In one the Council agreed to make a compensation payment of £1000 for delays in carrying out repairs. In the other the Council agreed to arrange for the redecoration of the complainant's property which was outstanding following repairs that had been carried out. The third case concerned a property sold under the Right to Buy Scheme. The Council sold a shared access to both the complainant and another person and then delayed in taking action to resolve the matter. The Council agreed to make a compensation payment of £150 and meet any legal costs arising from the late transfer of documents clarifying ownership to the Land Registry.

In the fourth case the Council agreed to pay for a hard standing area to allow the complainant to have off road parking as it had failed to consult her when giving consent to a neighbour for a new fence which had disrupted her parking arrangements.

The fifth housing case concerned the Council's action in suspending the complainant's application from the Housing Register as the Council considered she had rent arrears from a previous tenancy which ended over 10 years earlier. The Council agreed it was wrong to have pursued the debt in this case and agreed to reinstate the complainant's application onto the Housing Register and backdate the waiting time. The Council also made a compensation payment of £750

Local taxation

Four complaints about local taxation were upheld. In one complaint the Council quashed an incorrect Council Tax demand and summons costs. In another the Council agreed to reconsider its decision that there had been an overpayment of Council Tax Benefit; I commend the Council for its subsequent decision to write off the overpayment. In the third case the Council wrongly assumed that the complainant's family home was empty following a family bereavement so wrote to the Executors rather than the occupant which caused distress to her. It also failed to provide details of the Council Tax account when requested. The Council sent flowers to the occupant by way of apology and provided the required details of the Council Tax account. In the final case the Council sought recovery of Council Tax arrears from the complainant but did not seek recovery from his co-tenants. The Council Tax demand was only in the complainant's name as the Council had changed its policy of naming joint tenants on such demands. I did not find the Council to be at fault in pursuing only the complainant as he was jointly and severally liable for the debt. But the Council agreed to settle the complaint by writing off half the arrears and so put the complainant back in the position he would have been in had the Council not changed its policy.

Adult care services

A further two cases concerned adult care services. In one the Council failed to properly investigate complaints alleging assault against one of its social workers. In particular it was confused about which procedures to initiate and the investigation it carried out was insufficient. The Council has now reviewed its procedures and agreed to allocate a different social worker to the complainant. In the second case the Council failed to pursue the complainant's entitlement to income support and delayed unreasonably in carrying out an investigation into his complaint. The Council agreed to remedy the complaint by making a payment of £500.

Children's services

I received a complaint about the Council's unreasonable delay in arranging an investigation at stage two of the statutory complaints procedure. In order to settle the complaint, the Council agreed to complete its investigation within eight weeks. While I welcomed the Council's willingness to settle the complaint, it is disappointing that the complainant needed my intervention to secure the progress of the investigation.

Land

There were three settlements concerning complaints about land. Two complaints concerned the standard of work carried out at a Council-owned mobile home site. The Council settled the complaints by carrying out minor improvements to the site. In the third case, the Council made a compensation payment of £150 for delays in resolving a boundary dispute with a neighbour of land it owned. The Council also agreed to meet the costs of works for the boundary changes.

Parking

In two complaints about parking the Council refunded the fine paid by one complainant as it accepted a car park ticket machine was faulty and it cancelled the penalty charge notice incurred by the other complainant in response to representations made by him.

Planning and building control

Only one complaint about planning applications was the subject of a settlement. The Council agreed to make a payment of £150 for delays in taking enforcement action against a development which was not in accordance with the approved plans.

Education

Two cases concerned education services. Both concerned the Council's response to unofficial exclusions from school and raised similar issues. In one complaint the Council accepted that it had failed to challenge the unofficial exclusions of the complainant's child from school, failed to ensure the child was receiving full time education after her exclusion and did not pursue an alternative school place with sufficient vigour. The Council agreed to provide an IT package for the child up to the sum of £750 to assist with her reintegration into school and make a payment of £200 to the complainant to acknowledge her time and trouble in pursuing the complaint.

The second involved a child with a statement of Special Educational Needs. I found that the Council did not review and amend the child's statement in light of concerns that the placement would break down, it did not pursue an alternative school place with sufficient urgency and failed to ensure that sufficient educational provision was made while the child was out of school. The Council agreed to settle the complaint by providing additional educational benefit up to the sum of £2500 for the child to compensate for his period of missed education and a payment of £500 to the complainant to acknowledge the distress caused to her. I am pleased to note that the Council has now implemented a policy for identifying pupils who are out of school as a result of an unofficial exclusion in order to prevent a recurrence of the problems experienced by these complainants.

I commend the Council for its willingness to settle complaints and to review its procedures in light of the lessons learned. I also note the occasions it has taken the initiative to suggest a settlement in response to my enquiries. Nevertheless, I would like to take this opportunity to encourage the Council to identify complaints where it has made mistakes and settle them appropriately at an earlier time. This action may avoid the need for a complaint to me.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 50 complaints during the year. Your Council's average response time was 33.3 days which is outside the 28 days requested and is a deterioration on the previous year's performance (28.7 days). I trust the Council will aim to improve in this area.

I welcomed the Council's invitation for my Assistant Acting Ombudsman and an investigator to visit the Council to meet with senior officers. My officers found the visit to be productive and informative and I hope the Council found it to be useful.

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.

In last year's letter I asked the Council to consider redrafting its Fixed Penalty Notice to advise members of the public of their right to make representations. The Council's policy is not to advise the public that it may consider representations on the actual notice but it will, in practice, consider informal representations. After careful consideration of the Council's comments I have come to the view that the Council's practice is reasonable as it is consistent with that of other authorities and complainants can formally challenge the Notice at the magistrates' court. I thank the Council for the useful dialogue on this matter.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

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June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a ‘statement of reasons’ for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council’s own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your local authority. We will keep you up to date through LGO Link as each development progresses but if there is anything you wish to discuss in the meantime please let me know.

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June 2009

Appendix 1: Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Formal/informal prematures: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the Ombudsman's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

Table 4. Average local authority response times 2008/09

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

LGO Advice Team

Enquiries and complaints received	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	5	5	1	19	3	5	5	6	16	65
Advice given	1	1	3	4	2	3	2	4	11	31
Forwarded to investigative team (resubmitted prematures)	0	2	0	8	1	1	1	1	10	24
Forwarded to investigative team (new)	3	6	8	17	5	3	2	4	15	63
Total	9	14	12	48	11	12	10	15	52	183

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	27	0	0	18	18	17	80

Average local authority resp 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	50	33.3
2007 / 2008	63	28.7
2006 / 2007	37	32.4

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 Parks Authorities	100	0	0