

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

Portsmouth 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 Portsmouth City Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Portsmouth 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 63 complaints and enquiries during the year. Of these 11 were about housing issues, eight about planning-related matters, eight were in the public finance and local taxation category, and six concerned transport and highway issues. There were seven complaints about either adults' or children's care services, and the remainder were spread among a range of other service areas including education, benefits administration and dealing with antisocial behaviour.

We treated 19 of those complaints and enquiries as premature and in a further 16 cases advice was given (usually to make a complaint direct to the Council). The remaining 28 complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

General

I decided 35 complaints against the Council during the year. In 20 of those cases (57%) I found no evidence of maladministration. I used my discretion not to investigate a further three. 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 11% 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.

Reports

When we complete an investigation, we generally issue a report. This year I issued one report. The Council had invited tenders for certain one-year street trading licences. The complainant had been unsuccessful but accepted this on the basis that he would be able to tender again in the following years. But the Council then issued licences for three years to the successful bidder, thus removing the complainant's opportunity to be considered again in the following two years. It was also apparent that no tender process for these licences had previously been carried out for some years. Your Council accepted the findings of my report and paid the complainant the sum of £2,500 in recognition of the fact that its actions deprived him of business opportunities over two years. It also agreed to review its procedures. I completed my investigation and issued a report because the case raised matters of more general application than just the specific circumstances of this case.

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 seven resulted in local settlements, and involved payments to the complainants totalling £3,250.

Housing

Included in the overall totals above were seven housing complaints. Four of those were discontinued because there was no evidence of maladministration, and three others for various other reasons as described above.

There was one local settlement in a housing repairs case. Although there appeared to be no fault in the Council's handling of the repairs issue, there was fault in the way the complaint had been handled by the Council at all stages of its own complaints procedures. Your Council agreed to pay the complainant £100 in recognition of the time and trouble to which he had been put, and to arrange training in complaint handling for housing staff. I also recommended that the operation of your complaints procedures be reviewed to try to prevent a recurrence.

Planning

There were seven planning complaints among those determined last year. There was no evidence of maladministration in four cases, and one fell outside my jurisdiction. There were two local settlements.

In one case the Council failed to take comments from local residents into account when considering an application for extended hours of operation for a nearby superstore. Had it done so the application would have been put before a committee, although the available information suggested the outcome would not have been different. The Council also failed to respond properly to the complaint when my office referred it back as premature, and waited for twelve weeks before saying that it could not deal with it locally. I am grateful to the Council for agreeing to make a payment of £50 in recognition of the complainant's time and trouble in the matter and to work with the store operators and local residents to mitigate the impact of the extended opening hours.

In another case, the Council failed to transfer a condition which had been imposed on a grant of

planning permission to a subsequent permission for the same development even though the reasons for it still applied. Your Council agreed to obtain the agreement of those concerned and to carry out works to mitigate the impact of the development in the way that the original condition had intended.

Other settlements

There were four other local settlements during the year. In two cases involving adult care services, the complainants' sons were not receiving the correct support they needed in supported accommodation, but the Council's response to their complaints lacked sufficient independence from the service responsible for the care provision. It also failed to acknowledge the complainants' role in pursuing matters on their sons' behalf, even though it eventually arranged an independent investigation which substantially upheld the complaints. Your Council agreed to write to the complainants to acknowledge their role in highlighting the areas of concern, to share those aspects of the independent investigation it is legally able to disclose, and to pay them each the sum of £250 in recognition of their time and trouble. It also agreed to arrange advocates for all 24 service users affected; agree a suitable gesture of recognition in each case for the failure of services it should have been providing; and arrange a meeting to establish what lessons could be learned, including for the operation of its complaints procedures.

In another case the Council, without any explanation, threatened the complainant with bailiff action and court proceedings for Council tax relating to a period six years earlier. It then took two and a half months to establish that the complainant, who had been a student at the time and shared accommodation with other students, did not owe any Council tax. Your Council agreed to pay the complainant £100 in recognition of the distress its actions had caused and to review its procedures and use of standard letters.

The only other case subject to a local settlement concerned dust and debris from building works on the highway, and your Council readily and promptly agreed to arrange a weekly programme of cleansing and provide a nominated contact for the complainant in case of further problems.

My officers continue to appreciate the readiness of your staff to consider taking early action to resolve complaints.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 17 complaints during the year. Your Council's average response time of 27.2 days is shorter than last year's time of 31 days and now falls inside the 28 days requested. A small number of very quick responses masks the fact that responses took longer than 28 days in almost half the cases involved; these were spread across the Council's functions. It would be helpful if you could review your procedures with a view to sending your responses within the 28 day target whenever it is possible. Even so, the improvement is very welcome.

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

The pattern of complaints against your Council would not appear to be unusual in the context of the number of transactions it handles on behalf of its citizens during a year. I am grateful for your willingness to settle complaints where it is appropriate and for the overall improvement in the time taken to respond to our enquiries. Several cases have highlighted issues, largely of delay, in the handling of complaints through your own complaints procedures and you may now wish to consider whether your staff could benefit from some of the training we provide in complaints handling.

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.

J R White
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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	1	0	0	3	1	7	1	2	4	19
Advice given	0	1	0	4	0	1	0	0	10	16
Forwarded to investigative team (resubmitted prematures)	1	1	0	0	0	0	3	0	0	5
Forwarded to investigative team (new)	1	2	2	4	2	0	4	4	4	23
Total	3	4	2	11	3	8	8	6	18	63

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	1	7	0	0	20	3	4	35

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	17	27.2
2007 / 2008	27	31.0
2006 / 2007	20	60.0

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