Local Government
OMBUDSMAN

The Local Government Ombudsman's Annual Review

Solihull Metropolitan 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.

Contents of Annual Review

Section 1: Complaints about Solihull Metropolitan Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Solihull Metropolitan Borough Council**.**

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 telephone calls to our service has increased significantly since then to more than 3,000 a month. Our advisers now provide comprehensive information and advice to people who telephone, write or email. It enables citizens to make informed decisions about whether to put their complaint to us.

This means that direct comparisons with some previous year-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

A total of 49 enquiries and complaints were made about your Council in 2008/09. Of these 28 were forwarded to the investigation team, with the biggest categories being Education (8), Housing (7 complaints) and Planning and Building Control (6). The other complaints were evenly spread across the remaining categories.

Complaint outcomes

Local settlements

We will often discontinue enquiries into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. 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 on the same basis against your authority, nine (31%) resulted in a local settlement and payments of £1,960.

Two settlements concerned adult care services. In one, the Council had failed to deal properly with the parents of an adult with learning difficulties in relation to accessing and leaving a support network which facilitated independent living. This led to loss of a service, abortive costs, insufficient carer support and worry for the parents. The Council agreed to apologise, increase carer hours, allocate a social worker to monitor the situation and conduct reviews and issue a care plan and statement of service. In another case, the Council delayed by ten months in sending out an invoice for a relative's residential care and so the complainants were faced with paying a large bill all at once. The Council agreed to spread payment over 18 months and reduce the amount by £100 in recognition of its error and the distress caused.

An antisocial behaviour complaint led to a payment of £300 to reflect distress and inconvenience caused by failures to carry out policies and procedures properly.

Another complaint found that the Council had wrongly fettered its discretion by adopting a rigid policy to refuse applications for discretionary rate relief from organisations with bars (serving alcohol). The Council agreed to review its policy and make a payment of £1,000 to reflect the lost rate relief to the organisation which complained.

Of the 30 decisions made on complaints about your Council, eight were on premature complaints which had been resubmitted to the Ombudsman because the person complaining was unhappy with the response they had received from the Council (26.7% of decisions). These eight complaints resulted in two local settlements, 25% of the decisions made on them. Although the number of complaints involved is relatively small, these figures suggest the Council's complaints procedure is working satisfactorily.

Other

Two complaints which did not result in local settlements highlighted potential improvements in relation to school admission appeal procedures. In one, the Council's guidance on what parents could cover at appeal hearings was too prescriptive and it agreed to review and amend the wording. In the other the Council offered one panel hearing to parents making more than one appeal, which could potentially disadvantage them. My investigator asked the Council to consider whether combined appeals where appropriate, as well as identifying shortcomings in how the clerk's notes recorded the decisions made at a combined appeal.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our 19 written enquiries was 27.1 days, within the target of 28 days, and quicker than 32.4 days achieved last year. Looking at responses by category of complaint, education responses were received in an average of 15.2 days, which is important in helping us to deal quickly with school admissions complaints. By contrast Planning and Building Control complaints took an average of 39 days, with none received within the 28 day target, one Housing complaint took 47 days and a Special Educational Needs complaint took 45 days. Planning and Building Control was also slowest to respond last year at 46 days. These are areas where the Council might want to consider how to improve its response times further.
A prompt response to enquiries is important in helping us to provide a quality service to complainants.

My investigators have commented that officers are generally helpful and are willing to settle complaints quickly where problems have been found.

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.

In previous years we have 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 any further 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.

Mrs A Seex **June 2009**
Local Government Ombudsman
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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.

Mrs A Seex **June 2009**
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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 - Solihull MBC

For the period ending - 31/03/2009

LGO Advice Team

Enquiries and complaints received	Adult care services	Children and family services	Education	Housing	Benefits	Planning and building control	Other	Total
Formal/informal premature complaints	0	0	0	3	3	1	6	13
Advice given	1	1	2	1	0	1	2	8
Forwarded to investigative team (resubmitted prematures)	1	0	1	1	0	1	1	5
Forwarded to investigative team (new)	1	2	7	6	0	5	2	23
Total	3	3	10	11	3	8	11	49

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	15	5	1	30

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	19	27.1
2007 / 2008	28	32.4
2006 / 2007	12	22.8

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