

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

**Southend on Sea 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 Southend on Sea Borough Council

## Introduction

This annual review provides a summary of the complaints we have dealt with about Southend on Sea 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

Of the 49 enquiries and complaints received by our Advice Team in 2008/09, 19 were given help to complain to the Council in the first instance. This was because they had yet to exhaust your complaints procedure, and it seemed that they would not be disadvantaged by doing so before complaining to me if they remained dissatisfied at the end of that process. A further three enquirers were content with the advice they received and did not wish to pursue their concern further at that stage. The remaining 27 enquiries were passed on to an investigative team for consideration.

These complaints were across a broad range of Council services with the majority being evenly split between social services, housing, planning and building control, and transport and highways.

## Complaint outcomes

I made 31 decisions on complaints made against the Council in the year. Four complaints were outside my jurisdiction and so I was prevented from considering them. In a further four cases I exercised my discretion to end my involvement in the complaint due to a lack of significant injustice to the complainant. I found no fault in 12 complaints. Of the remaining complaints, I issued one report, and settled 10 complaints locally with the Council.

## **Reports**

When we complete an investigation, we generally issue a report. This year I issued one report against your Council. The complaint was about the way in which the Council had arranged the education of a child who was being looked after by another local authority but placed with foster parents in Southend on Sea. I issued a report because I found maladministration on the part of the other local authority which was acting as the child's corporate parent. I found no fault in the actions of your Council in the way in which it assessed the child's educational needs.

## **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. The comparable local settlement rate for your Council was 38.5%.

## **Complaints by service area**

We learn a lot from both the complaints we settle locally as well as those where I exercise my discretion to discontinue my involvement usually because of a lack of significant injustice to the complainant. I will go on to highlight some of the key points which have been identified from the decisions we have made in the past year by service area.

### ***Planning and building control***

I exercised my discretion to discontinue my involvement in one planning complaint this year where I had some concerns about the lengthy delays in responding to the complainant's concerns about a planning application for development close to his home. As the application was subsequently withdrawn I could not conclude that the complainant had been caused any injustice as a result of this, but I remain of the view that he was entitled to receive a timely response to his enquiries.

### ***Housing***

I dealt with three complaints about the management of tenancies this year which were settled locally. Two concerned failures in the way in which the Council dealt with applications for under occupation grants where tenants agree to move to smaller accommodation to free up larger properties in the expectation that they will be reimbursed the costs associated with their house move. In one case the individual was not informed of their entitlement to the grant when moving, and in the second there were significant delays in processing the application. The Council agreed to pay the maximum eligible grant in both cases.

In a third complaint I found that the Council had failed to keep someone who lived in sheltered housing fully informed about the timescale for finding a replacement Resident Sheltered Housing Officer which caused some unnecessary anxiety to the resident.

### ***Education***

I dealt with one complaint this year where I found that the Council's policy on how it monitors elective home education was too prescriptive and did not entirely conform with central government guidance. The Council agreed to revise its policy as a means of redress.

In another complaint I found that the Council had failed to provide the minimum level of alternative education for a child who had been excluded permanently from their local school. The Council provided £2,550 in compensation for the benefit of the child's education in recompense.

## ***Children and family services***

I found fault with the level of services and support provided to three children who had been in care before being accommodated by a kinship carer (member of the extended family). The Council agreed to undertake a number of specific tasks associated with their care and support needs, and make a small payment to the children now together with a larger one to their trust funds for future use in recompense.

In another case I found that the complainant had been caused an enormous amount of anxiety and distress over a simple mix up of records which resulted in a wholly inaccurate chronology of events being prepared for a child protection case conference. Despite the complainant telling the Council that its records in relation to a former partner bore no relation to their recollection of the individual, it took four years for the records to be corrected.

## ***Other***

I closed a complaint last year as a local settlement which concerned two individuals who were subjected to a number of investigations in connection with their employment in school transport services. I found that a number of mistakes were made about the accuracy of the outcome of previous investigations which were then wrongly fed in to subsequent investigations. This left the individuals who were involved with a number of concerns about their ability to obtain a fair hearing. The Council agreed to add an addendum to their records to correct the inaccuracies and provided £750 compensation for the distress its errors had caused.

## **Liaison with the Local Government Ombudsman**

The average time taken by the Council to reply to my written enquiries was 37.7 days, which is disappointing given that I made the same number of enquiries as in the previous year when the Council very nearly achieved the target I set of 28 days. I do accept however that some of these enquiries have been in respect of complex complaints where I have asked for a large amount of information. Anything the Council can do to improve its performance in this area next year would be welcomed.

## **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.

**Tony Redmond  
Local Government Ombudsman  
10<sup>th</sup> Floor  
Millbank Tower  
Millbank  
London  
SW1P 4QP**

**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.

**Tony Redmond**  
**Local Government Ombudsman**  
**10<sup>th</sup> Floor**  
**Millbank Tower**  
**Millbank**  
**London**  
**SW1P 4QP**

**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	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	2	0	10	2	1	1	2	1	19
Advice given	0	0	1	0	0	0	1	1	3
Forwarded to investigative team (resubmitted prematures)	0	0	0	1	1	2	1	1	6
Forwarded to investigative team (new)	5	2	5	0	0	2	3	4	21
<b>Total</b>	<b>7</b>	<b>2</b>	<b>16</b>	<b>3</b>	<b>2</b>	<b>5</b>	<b>7</b>	<b>7</b>	<b>49</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	10	0	1	12	4	4	31

**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	22	37.7
2007 / 2008	22	28.8
2006 / 2007	21	37.5

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