

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

**London Borough of Southwark
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 the London Borough of Southwark 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Southwark. 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 320 complaints and enquiries during the year. Of these 172 were about housing issues, 29 concerned transport and highways matters, 24 were in the benefits category and 16 were about public finance and local taxation issues, 11 related to education matters, 13 were about adult care or children and family services, eight involved planning and building control and the remainder were in the 'Other' category which includes anti-social behaviour.

We treated 118 of those complaints and enquiries as premature and in a further 59 cases advice was given (usually to make a complaint direct to the Council). The remaining 143 complaints were forwarded to the investigative team either as new complaints or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 180 complaints against the Council during the year. In 51 of those cases (28%) I found no evidence of maladministration. I used my discretion not to investigate a further 22. 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 21 cases (12% 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.

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, 86 were local settlements. This represents 48% of the total number of complaints determined and shows a small decrease on the previous two years which crept above the 50% mark.

As in previous years my officers generally find your staff very helpful and keen to settle complaints. But for the fourth year I have to raise the issue of implementation of local settlements. Once again we have reopened three complaints where compensation has been agreed but then not been paid and my staff continue to spend a significant amount of time chasing up the Council in other cases. This is frustrating for complainants and undoes much of the good work achieved through a satisfactory settlement. I would be grateful if you could explain to me why the payment of compensation is so difficult for your Council and the steps it intends to take to improve this ongoing problem.

Housing matters remain the largest group of settled complaints at 56% of the total with complaints about housing repairs, accounting for nearly three-quarters of this category, with the Council paying a total of some £20,500 compensation. In almost all these complaints the Council had delayed for some time in carrying out repairs or inspecting reports of disrepair, leaving complainants in unsuitable accommodation for longer than was necessary. My officers have encountered repeated difficulties in obtaining clear and accurate information about the action taken in these cases. On several occasions the Council has said that repairs have been completed when they have not. I understand this is often due to incorrect information from contractors but I would expect the Council to have a more robust monitoring system in place to ensure that discrepancies are picked up. I note that last year the Council said it was introducing a new system for responding to housing repair complaints and I am disappointed that this has not yet produced significant improvements in this area.

In one case we dealt with a third complaint about ongoing repairs to a water tank and pipes. We had closed the second complaint on the basis of information provided by the Council that the work had been completed. The complainant then informed us that the work had not been completed so we reopened the complaint and made further enquiries. The Council accepted it had given us inaccurate information. It completed the outstanding repairs six months after it said it had done them and paid the complainant £360 compensation.

In another case the Council had failed to repair within a reasonable time the external fabric of the complainant's property to prevent water ingress. It had also delayed in replying to her complaints about the matter. The Council first said that the repairs had been completed but again the complainant informed us that they had not been effective and the Council was still inspecting the matter. The Council had accepted some fault at stage three of its own complaints process. After our involvement it increased the compensation from £270 to £630. It then missed the deadline for completing the repairs so agreed to pay a further £100 and then £100 for each month the repairs were not done.

In a third repairs case the Council failed to address repair issues involving leaks, a faulty central heating system and electrical problems at the complainant's flat between December 2006 and November 2007. It then offered him temporary accommodation rather than the option of a

permanent move. The Council agreed to pay £2,000 in respect of the failure to carry out repairs and £1,000 for the failure to offer a permanent move. Additionally it placed the complainant's transfer application in Band one with a registration date of 1 December 2006 thereby enabling him to secure a move.

In one homelessness case the Council delayed in registering the complainant's housing application and gave him a registration date that was nine months later than it should have been. Although it paid him £5 per week for the delay it did not compensate him for his time and trouble in pursuing the matter with the Council. It failed to take a forwarding address from him and sent its homelessness decision to his old address. The Council also failed to advise him when he was interviewed at the Homelessness Unit that he needed to make a fresh housing application due to a change in his circumstances but suspended him from the Housing Register in line with its policy even though there was no evidence that his housing need had diminished. The Council agreed to pay £300 on top of £170 that had already been paid at stage two of its own complaints procedure. It also agreed to review staff training to ensure that all staff are aware of the needs of housing applicants. I am pleased to note that the Council has set up a Homeseach Centre to deal with all aspects of housing need and staff have received additional training in connection with this. All applicants now have an interview with a Housing Options Officer.

We settled six complaints about housing allocations. In one case the Council delayed in processing the complainant's housing application. The Council accepted that two other applicants in band three with later registration dates had successfully bid for two-bedroom properties and had the Council not delayed, the complainant could have been permanently rehoused nine months earlier. We initially proposed that the Council prioritise the complainant's application so that he would be offered the next suitable property for which he placed a bid. The Council did not wish to agree to this but instead proposed to apologise and to pay £820 compensation together with £15 per week from 8 January 2008 until the next date that an applicant in band three, with the same or a later registration date than the complainant, successfully bid for a two bedroom property anywhere in the Borough or until the complainant made a successful bid. I considered this proposal to be acceptable.

In another case the Council delayed in convening a case conference to discuss the complainant's request for temporary rehousing. Although it was essential that the police attend the conference, the Council failed to contact the Police between June 2007 and October 2007 and the conference was unreasonably delayed as a result. The Council also failed to acknowledge or respond to her complaint made by email in July 2007. The Council agreed to pay the complainant £1,000 compensation and write to her setting out how officers could assist her in finding accommodation.

In a complaint about council tax benefit the Council failed to make proper checks when awarding a student discount which led to the complainant receiving a 100% exemption from council tax for two years when she was not entitled to it. The Council did not correct the mistake when it was discovered in 2006 but waited two years to do so, increasing the complainant's liability by nearly £1,000. The complainant's financial situation had worsened and she was in receipt of income support along with disability benefits and was not in a position to repay the debt. The Council had also sent in the bailiff for a second time to recover the debt when it had promised not to do so, on account of her disabilities. The bailiff threatened to take her motability car which was her only means of transport. The Council agreed to write off the increase in the council tax debt (£993.67), pay the complainant £250 compensation and accept monthly payments of £20 towards the remaining balance.

In one of two settled complaints about antisocial behaviour, the Council had failed to implement properly the recommendations I made in a previous report. In particular the Council had misrepresented my findings in its own report to Members and failed to remove all the documents from the files which referred to unfounded allegations of racial abuse by the complainant

(the subject of my report). These errors caused considerable distress to the complainant and exacerbated his sense of grievance with the Council, which in turn led to a complete breakdown in trust. The Council agreed to a 13 point settlement which included rewriting and redistributing the report to Members, revising the Members' report procedure, publishing an erratum on its website, removing further documents from the files, allowing the complainant the opportunity to inspect the files himself, placing a memorandum on all the relevant files drawing attention to the errors and providing further training to staff to ensure that local settlements are implemented properly in future. The Council also offered to pay the complainant £1,000.

Five complaints about children and family services were settled. Three of these highlighted serious delays in the operation of the statutory complaints procedure. In all the cases there was an inordinate delay (11 months, 15 months and 17 months) in completing the stage two investigation. In one case the Council proposed carrying out a procedural review and agreed to our suggestion that the Corporate Complaints Manager be involved in that process. It would be helpful to know the outcome and conclusions of that review. In these three cases the Council paid the complainants a total of £1,600 compensation.

We settled five complaints about the same planning matter where the Council had failed to properly assess the effect of a proposed six/seven storey building on the residents of an adjacent block of flats. The separation distance in the case officer's report were incorrect, there were no site visit notes, the Council failed to notice the drawings were inaccurate and it had given inadequate justification for departing from the separation distances in its own policy. It is possible, if the mistakes had not occurred, that a lower building would have been approved similar to a three/four storey proposal which had previously been granted planning permission uncontestedly. In four of the cases I concluded that the residents had been affected by overlooking and loss of view. The Council had already paid compensation of between £200 and £250 to the complainants as a result of its own complaints procedure. It further agreed to place one resident in band 1 on the housing register and paid an additional £1,900 to the other complainants.

In total the Council paid £38,233 to complainants as a result of complaints to my office. I am grateful for the Council's willingness to arrange redress when things have gone wrong.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 121 complaints during the year. I am disappointed to see that your Council's average response time has increased to 44 days from last year's time of 40.2 days. Some 85% of London Boroughs achieve an average response time of less than 36 days and 58% meet our target time of 28 days. Although I am pleased to note a slight improvement in the response times on housing complaints (which account for over half of all the enquiries made) from 47.6 days to 41.2 days, it is unacceptable that the response time in every category of complaint exceeds 28 days. I am aware that the Council has implemented its restructured complaints system this year and I sincerely hope this will now bring much needed improvements in this area.

My officers continue to appreciate the readiness of your staff to consider taking early action to resolve complaints and with the exception of housing repair matters, the quality of the responses is generally good.

I was pleased to welcome several of your complaints staff to my link officer seminar this year and I hope they found it useful.

Training in complaint handling

I am pleased that during 2008/09 we provided a training course in Effective Complaint Handling to staff from your authority.

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.

**J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

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.

**J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

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	3	1	64	12	9	4	13	11	118
Advice given	0	0	3	29	3	3	1	6	14	59
Forwarded to investigative team (resubmitted prematures)	1	2	0	22	0	1	3	4	7	40
Forwarded to investigative team (new)	3	3	7	57	9	3	0	6	15	103
Total	5	8	11	172	24	16	8	29	47	320

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	86	0	0	51	22	21	180

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	121	44.0
2007 / 2008	119	40.2
2006 / 2007	126	39.4

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 park authorities	100	0	0