

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

Transport for London

**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 Transport for London 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Transport for London. 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 authority first.

This 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 226 enquiries and complaints received by our Advice Team in 2008/09, 74 were passed back to your Authority to attempt to resolve in the first instance as the complainant 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 59 enquiries were dealt with by the provision of advice. The 93 remaining enquiries were treated as investigable complaints and passed on to an investigative team for consideration.

Complaint outcomes

This year I made 114 decisions on complaints that had been received against your Authority. 100 of these complaints were about traffic enforcement (congestion charge, parking etc) and highway management, and 11 were about public transport.

Reports

When we complete an investigation, we generally issue a report. This year we issued three reports against your Authority. All three reports were about your Authority's failure to reconcile cheques which you had received from motorists against outstanding penalties. The cheques were cashed but despite the motorists contacting Transport for London on numerous occasions in an attempt to satisfy your Authority that payment had been made, enforcement of the penalties continued. The three complainants were each contacted by bailiffs and two had their vehicles clamped and had to pay the penalties a second time before their vehicles were released. As a result of my enquiries, a total of £1,780 in refunds and compensation was paid to the three motorists.

I am pleased to note that Transport for London has taken steps to ensure that similar complaints are unlikely to occur as a result of my report.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, an authority 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 111 decisions (this figure excludes reports) we made on complaints against your Authority, 33 were local settlements (30%). A total of £14,476 was paid in compensation and refunds to complainants.

As I have noted in previous years, the number of complaints we receive about congestion charging and traffic enforcement is low considering the volume of transactions processed by Transport for London. Just over half a million PCNs were issued for parking, bus lane and moving traffic offences. Over 15 million valid congestion charge payments were made during the year and nearly 1.5 million penalties issued. Against this volume of activity we received a total of 93 complaints. I also note that whilst your Authority dealt with almost 200,000 applications for discount from the congestion charge during the year – we received just one complaint about this issue.

The Low Emission Zone (LEZ) came into existence in February 2008. The introduction of the charging scheme was phased and I understand your Authority initially sent warning letters to owners of vehicles which were in contravention of the regulations rather than issuing penalties. No complaints about contraventions of the LEZ were passed to our investigative team during the year, albeit we did receive one complaint from a vehicle owner who alleged he had been given wrong information on your website about the introduction of the scheme. Your Authority accepted that information on its website had been altered and this had led to confusion on the part of the complainant.

One complaint which I received was that your Authority had failed to properly consider exercising discretion to cancel a parking penalty. A Parking Enforcement Officer was in the process of issuing a parking ticket to a vehicle left in a disabled parking bay but which was not displaying a blue disabled badge. While the Officer was writing the ticket the motorist returned to the car accompanied by a passenger who was on crutches. The officer noted the circumstances in her pocket book but said that as she had completed the issuing of the ticket she could not cancel it. She advised the motorist to make representations against the issue of the penalty. The motorist did so but the representations were rejected.

The complainant had no statutory right of appeal against the issue of the parking penalty in these circumstances and so the matter fell into my jurisdiction. The handling of representations made to your Authority was carried out by a contractor. My investigator interviewed Notice Processing

Officers working for the contractor who had dealt with the representations on behalf of your Authority. He found that the Officers had no discretion to allow the representations made by the motorist. Their written instructions from Transport for London were that if the vehicle was not displaying a blue disabled badge, the representation must be rejected. This was administrative fault as the written instructions given to the Notice Processing Officers fettered their discretion to consider representations made by motorists. Following my investigation you agreed to cancel the penalty and refund the charges which had by this time been paid. A payment was also made to the complainant in recognition of the time and trouble which he had been put to. I am pleased that you have now changed the way in which these matters are considered by Notice Processing Officers and that they have been given proper discretion to cancel penalties where appropriate to do so.

My investigators have noted that your Authority has on occasion taken swift action to settle complaints without them having to become involved. The largest settlement made this year came after a complaint had been made to us but before we had commenced formal enquiries. The complainant alleged that your Authority had wrongly impounded his car (a high performance sports car); had failed to give him information about how it could be returned; and had not taken reasonable care of the vehicle while it was impounded. While not admitting that the original penalties had been wrongly issued, or the vehicle wrongly impounded, your Authority accepted that it had not corresponded with the complainant properly. It agreed to cancel all the penalties and outstanding charges – a total of £4,340.

Other decisions

About a third of the complaints which are passed on to investigative staff by the Advice Team are out of jurisdiction. This is because a considerable proportion of the complaints received by the Team are about the issue of Penalty Charges where aggrieved motorists have a statutory right of appeal to a Parking Adjudicator. Complainants are often told of this when they make enquiries of the Advice Team but nonetheless request that their complaints are passed on for investigation. On receipt, my investigators continue to consider if they should exercise the discretion open to them to investigate complaints where a complainant had yet to exercise their statutory right of appeal where it did not seem appropriate to compel them to do so. Similarly, my investigators are often able to provide advice about how an individual may get their appeal rights reinstated where they say that they have yet to be notified of one of the stages in the enforcement process of Penalty Charges.

Liaison with the Local Government Ombudsman

The average time for your Authority to reply to our written enquiries last year was 39.1 days which is disappointing given that you achieved an average response time of 30.3 days last year, very close to our target period of 28 days which 58% of London Boroughs manage to attain. Some enquiries took in excess of 11 weeks to answer, and only a quarter were answered within the target period.

My officers have continued to liaise with yours in an effort to achieve service improvements. For example, I note that at the suggestion of one of my officers, your Authority was willing to change the wording of letters sent to motorists to demonstrate that their representations against a Penalty Charge had been fully considered, and to make your Authority's views clearer and decisions more transparent.

Members of my investigate team met with your senior officers at the turn of the year and were informed that you were reorganising the way you deal with traffic and congestion charge enforcement. We will continue to provide feedback on your performance based on what we learn from those who make complaints to us about your Authority.

Training in complaint handling

I am pleased that during 2008/09 we provided training in Good Complaint Handling and Effective Complaint Handling to staff from your Authority. Your officers also attended seminars which we put on for link officers.

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 Authority's services.

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June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring authorities 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 authority’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 authority 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 Authority 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 Authority, the LGO will usually refer it back to the Authority as a 'premature complaint' to see if the Authority 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 Authority. *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 Authority.

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 Authority.

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 Authority 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 Authority. The Authority's figures may differ somewhat, since they are likely to be recorded from the date the Authority 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	Transport and highways	Other	Total
Formal/informal premature complaints	66	8	74
Advice given	49	10	59
Forwarded to investigative team (resubmitted prematures)	21	2	23
Forwarded to investigative team (new)	66	4	70
Total	202	24	226

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	3	33	0	0	34	12	32	114

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	46	39.1
2007 / 2008	70	30.3
2006 / 2007	34	29.6

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