

**The Local Government Ombudsman's
Annual Review
Welwyn Hatfield 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 Welwyn Hatfield Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Welwyn Hatfield 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

A total of 28 enquiries and complaints were received about your Council in 2008/09. Housing generated most contacts, 12 in total.

A total of 17 complaints were passed to the investigation team. Of these seven concerned housing issues (three related to housing allocations; the others were about homelessness, housing repairs, managing tenancies and private housing grants). Four complaints were about planning and building control (two related to planning applications, one to trees and one to planning advice). The remaining complaints concerned land (three complaints related to the same matter), anti social behaviour (two) and local taxation.

Complaint outcomes

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. This can include such things as reconsideration of a decision, repairs carried out, policies reviewed, benefit paid, an apology or other action. In addition I may ask the Council to pay compensation.

In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. This year I agreed local settlements in four complaints against the Council and recommended financial compensation in two, totalling £750.

In one case I found there had been unnecessary delay of around six months in finalising a Disabled Facilities Grant application. The complainant was elderly and vulnerable, which I concluded exacerbated the injustice they were caused. The Council agreed to apologise for the delay and make a payment of £500.

The second financial settlement concerned a planning application. Here, the Council failed to make direct reference to the complainant's letter of objection in the planning report, inaccurately measured the angle of sight from their property (which impacted on the assessment of loss of light) and delayed in responding to correspondence. I did not believe a different decision would have been reached without this fault, but accepted the complainant would never know this for certain and had been put to some unnecessary time and trouble in pursuing the matter. The Council agreed to apologise and pay £250 in recognition of this.

In a building control case the complainant alleged delay in dealing with a neighbour's breach of building control. During the course of my investigation the Council served notice on the neighbour to remedy the breach. As it did not appear the complainant had been caused significant injustice as a result of the contravention I felt the action taken by the Council was a satisfactory way of resolving the complaint. I also welcomed the Council's prompt action in response to the issues the complaint raised about internal liaison.

The final local settlement related to a complaint where the Council had not made clear to a tenant at the outset the full amount that they were supposed to be paying towards rent and other charges; as a result arrears built up without their knowledge. The error was compounded by the Council wrongly saying there were no arrears on the account and delaying in giving the correct position. I welcomed the Council's proactive action in apologising for these errors and agreeing to write off the arrears.

Other decisions

I came to decisions on 16 other complaints. In four cases I found no fault with the Council: in two anti social behaviour cases I was satisfied the Council's actions were reasonable; in a local taxation case I found that payment demands had been correctly sent out; and in a housing case I did not feel the Council had been at fault in withdrawing an offer of first floor accommodation when its information was that only ground floor accommodation would meet the complainant's needs.

Sometimes, I do not pursue the investigation because, if there was fault, it did not result in any injustice to the complainant. I used this discretion in 12 cases. In one case I did not receive consent from the complainant for the person submitting the complaint to act on their behalf and another two were withdrawn. In one housing repairs case I did not consider the delay in dealing with alleged disrepair warranted anything more than the Council taking the action it had already agreed. And in another repairs case the alleged fault happened too long ago to pursue.

With one complaint the Council, for some reason I could not establish, did not receive a letter regarding a neighbour's proposed conservatory: the complainant suggested its construction was racial harassment. The Council was clear that if it had received the complainant's letter its advice would have been to refer the matter to the police, which the complainant already knew.

Three linked complaints concerned the Council's decision to sell land in a conservation area to a water company for a pumping station. While the Council could have resisted the sale, I did not

consider I needed to explore whether there was fault in not doing so because the water company had a right to enter the land and conduct works and councils must facilitate this work. The water company could also have pursued compulsory purchase. I did not see that a decision to agree the sale at a suitable market rate was unreasonable.

In a planning case a neighbour was alleged to have been granted permission for an extension when the complainant had been refused something similar. Without investigating whether or not circumstances were different, I noted that there were appeal rights and a fresh application could be made: I did not consider it appropriate to become involved in the merits of a planning application.

The final case where I exercised my discretion concerned a tenant's right of way to the side of a property. The complainant said its width had been reduced. The Council denied this and while I could not come to a definite conclusion, the path appeared to be the same width as the neighbours and had not obviously been altered.

Liaison with the Local Government Ombudsman

The average time taken by your Council to respond to our written enquiries was 28.9 days. Although this falls just outside my target of 28 days it represents a welcome improvement over the previous year's figure.

However, I note that in one anti social behaviour case there was a particularly poor response time; the Council took six weeks to respond to my initial inquiries and then failed to enclose the requested documents which were not provided a for a further seven weeks. There was also significant delay in responding to the further inquiries I then made. This is disappointing and I hope the Council will ensure these problems do not recur in future.

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.

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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	Housing	Public Finance inc. Local Taxation	Planning and building control	Other	Total
Formal/informal premature complaints	4	0	3	2	9
Advice given	1	0	0	1	2
Forwarded to investigative team (resubmitted prematures)	2	1	0	0	3
Forwarded to investigative team (new)	5	0	4	5	14
Total	12	1	7	8	28

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	4	0	0	4	12	0	20

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	15	28.9
2007 / 2008	8	33.3
2006 / 2007	10	31.1

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