

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

**Wirral 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.

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

Introduction

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

During the year the Advice Team received a total of 218 enquiries about your Council. One hundred and fifty complaints were forwarded to the investigative team for investigation. This figure was considerably inflated by a large number of complaints about the proposal to close a number of libraries in the Council's area.

Complaint outcomes

Forty three complaints were determined during the year. Six were found to be outside jurisdiction and in another 9 cases discretion was exercised not to pursue the complaints further. In 16 cases there was no evidence of maladministration.

Reports

I issued one report about maladministration causing injustice to the complainant. This was about a complaint that the Council had not complied with the decision of a Special Educational Needs and Disability Tribunal that the complainant's child should attend a mainstream secondary school in the Council's area. This arose because of a dispute between the Council and the complainant about whether the family's main residence was in the Council's area or elsewhere. As a result the child was deprived of full-time education from October 2005 to November 2006.

The Council agreed to remedy the injustice by reserving until the end of year 11 a sum equivalent to the cost of the year's education that the child had missed, when the money would be used to fund any additional educational provision that the school and an educational psychologist recommended as being beneficial. The Council also agreed to pay the complainant £1,000 in recognition of the anxiety, stress, time and trouble that had been caused by the maladministration, together with a payment of £655 to reimburse the cost of private tuition.

Although the Council agreed to my recommendations, I was gravely concerned about other aspects of the way that it dealt with my report. Those concerns have been aired with the Chief Executive and other senior officers and I hope that no further reference to the issues will be necessary in the next Annual Review.

Local settlements

We will often discontinue enquires 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 against your authority, 11 were locally settled and I will mention these below.

Adult care services

Two complaints resulted in settlements in this category. The first was a complaint about a failure to make proper arrangements for the transfer of the complainant's disabled child from school to adult care; failure to make direct payments properly; and failure to fund respite care properly. This was remedied by a payment of £5000 compensation. This complaint had been referred to me by the Council itself because its constitution does not allow for compensation to be paid without my approval.

The other matter concerned the support given to the complainant's elderly relative who had gone into a private residential home. In addition to compensation already paid to the complainant before the complaint was made to me, the Council offered to contact the relative to see if they wished to have assistance from the Council's welfare rights staff.

Children and family services

One complaint was settled under this heading. This was about a long delay in organising the Council's internal complaints procedure which was settled by an apology and £500 compensation for the complainant's time and trouble. The Council initially failed to recognise how poor its handling of this complaint had been and this caused some delay in resolving the complaint.

Land

In this case the Council made a mistake about which path it intended to close. Once the Council recognised its mistake it remedied the matter by withdrawing the closure plan.

Planning applications

Two complaints were settled under this heading. The first complaint was about the failure by the Council to respond to an application for the erection of a telephone mast within the required time scale, as a result of which the Council was unable to prevent the telecommunications company going ahead. The Council agreed to ask the District Valuer to estimate that the difference in the value of the complainant's home with and without the mast. In addition the Council agreed to pay the complainant £250 for their time and trouble in pursuing the complaint.

The other complaint was about a number of failings in the way that a planning application was considered. The Council agreed to ask the District Valuer to calculate the loss of value to the complainant's property as a result of the granting of the permission. The Council took action to draft guidance on separation distances and the height of land, as well as amending procedures to ensure that reports to the planning committee stressed the potential impact on neighbours. Training for planning committee members was also to be examined. In addition the Council agreed to pay £250 compensation to the complainant for their time and trouble in complaining.

School admissions

Three complaints about school admissions matters were settled. The first concerned some confusion over the complainant's right of appeal against the refusal of a place at their preferred school.

The other two complaints concerned the appeal process for a selective school in the Council's area, where the Appeal Panel was given incomplete information as a result of which it did not properly consider the fairness of the selection process.

All three complaints were settled by the offer of fresh appeal hearings.

Miscellaneous

The Council settled a complaint about a failure over a prolonged period to provide information requested by the complainant in connection with an earlier complaint. The Council provided the information and offered £50 compensation.

Liaison with the Local Government Ombudsman

My office made enquiries of the Council on 103 occasions (again this figure is greatly inflated by the number of complaints about library provision). The average number of days taken to respond was 16.2, as against 26.3 days in 2007/08 and 111.9 days in 2006/07.

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.

**Mrs A Seex
Local Government Ombudsman
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YORK
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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.

**Mrs A Seex
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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	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	2	4	0	3	0	3	7	4	10	33
Advice given	4	2	2	2	0	1	2	1	21	35
Forwarded to investigative team (resubmitted prematures)	2	0	1	0	1	0	2	1	4	11
Forwarded to investigative team (new)	8	2	7	0	0	2	2	1	117	139
Total	16	8	10	5	1	6	13	7	152	218

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	1	11	0	0	16	9	6	43

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	103	16.2
2007 / 2008	33	26.3
2006 / 2007	52	111.9

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