

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

Wolverhampton City 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.

Contents of Annual Review

Section 1: Complaints about Wolverhampton City Council 2008/09.....	3
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	4
Liaison with the Local Government Ombudsman.....	5
Training in complaint handling.....	6
Conclusions.....	6
Section 2: LGO developments.....	7
Introduction.....	7
Council First.....	7
Statement of reasons: consultation.....	7
Making Experiences Count (MEC).....	7
Training in complaint handling.....	7
Adult Social Care Self-funding.....	8
Internal schools management.....	8
Further developments.....	8
Appendix 1: Notes to assist interpretation of the statistics 2008/09.....	9
Appendix 2: Local authority report 2008/09	

Section 1: Complaints about Wolverhampton City Council 2008/09

Introduction

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

The Ombudsman's Advice Team received a total of 84 complaints and enquiries about the Council. Of these, 26 were treated as premature and referred back to the Council for consideration under its complaint process, while 45 were referred to an Investigative Team for a decision. In the remaining 13 cases we gave advice short of a decision, usually to pursue the matter through the Council's complaints process.

The largest source of complaints and enquiries we received (30 in total) were concerned with housing, mainly complaints about repairs, allocations and homelessness. We also received 11 complaints and enquiries about education (mainly school admissions) and seven about planning matters. The remaining contacts were concerned with a variety of Council services including benefits, adult care services and the Council's response to complaints about anti-social behaviour.

Complaint outcomes

This year I decided 51 complaints against the Council and am pleased to say that I did not have cause to issue any reports.

In 10 cases I decided that the matter complained about could not be investigated as it was not in my jurisdiction to do so. In 27 cases I found no or insufficient evidence that the Council had acted with administrative fault or had failed to deliver a reasonable service to the complainant. In three cases I used my discretion not to pursue an investigation because I did not consider the complainant had suffered a significant injustice, even if the Council had been at fault as claimed.

In the remaining 11 cases I discontinued investigation as a result of a local settlement being reached. 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. So the number of settlements reached here (20%) is slightly below the national average.

Six of these cases involved complaints about the Council's housing management which is undertaken by an arms length management organisation, Wolverhampton Homes. In four cases the Council failed to remedy problems with housing repairs. On two occasions there were delays in carrying out redecoration (or making available a redecoration grant) after flooding incidents, while the other two complaints concerned the Council's failure to repair broken fences. In total the Council paid compensation of £300 in recognition of its delays here. In one case it also agreed to carry out some repairs to a fence for which it was entitled to bill the complainants (as they were owner-occupiers and the fence was shared) and it provided a skip, free of charge, to help a complainant remove rubbish from his garden.

In another case Wolverhampton Homes agreed to remedy a complaint from a resident that her home suffered from a lack of privacy, by agreeing to provide some planting to give additional screening. Compensation of £100 was paid to another complainant whose fence had been damaged by youths who were congregating in the vicinity of some dilapidated garages, which the Council had delayed in demolishing.

Of the remaining five cases, one involved the Council's response to reports of antisocial behaviour between an owner-occupier and a private tenant. The Council's response was initially provided by its Environmental Health Department which was investigating complaints about noise. But the Council failed to investigate other alleged nuisances and delayed in referring the matter to its Anti Social Behaviour Unit, which was then able to intervene successfully with the landlord of the property. This delay, combined with lengthy delays in the handling of the subsequent complaint about this matter, led the Council to pay compensation of £400.

Compensation of £160 was paid to a complainant whose plans were lost by the Council's Planning Department, where again a subsequent complaint was poorly handled. And the Council also had to apologise for failing to deal with a complaint about the customer service provided by its Adult Care Services. It settled this complaint by belatedly agreeing to look into the issues raised.

The final two cases concerned education admission issues. In one, an education admission appeal panel relied on incorrect facts to reach its decision and the Council agreed to a fresh appeal. In another case the Council had mistakenly withdrawn a service provided by a Pupil Referral Unit to an excluded pupil on the misunderstanding that an alternative school place had been found elsewhere. On recognising its error, the Council agreed to supply extra tuition for the child in

question to make up for that which had been lost.

Overall therefore the Council paid compensation totalling £960 for complaints decided the year commencing 1 April 2008, as well as providing the additional services referred to above.

One issue that gives me some cause for concern is a recurring theme in some of the above, that the Council's complaints process has failed to remedy fairly simple complaints at an earlier stage. The slow response of the Council to complaints is also something that has been flagged up in cases where the complaint itself has not been upheld. I note also that 13 of 45 complaints that were passed to an investigative team had previously been referred to the Council, which is a higher proportion than I might expect.

On the other hand, there have been some significant attempts to settle complaints. One case where it had agreed to waive a percentage of contributory charges for adult residential care, where poor advice had been given at the outset, was singled out for particular praise. In another case a complainant contacted me to say how impressed he was with the Council's comprehensive response to a complaint I had referred to it as premature. And the detail of some of the settlements above indicates that the Council is often willing to go the extra mile to provide redress where things have gone wrong.

Finally, in the year ending 31 March 2008 I issued one report against the Council, which recommended that it pay for the annulment of bankruptcy proceedings it had issued against a complainant for council tax arrears (subject to the complainant agreeing to repay a proportion of these costs in turn) as well as revise its procedures in this regard. I am pleased to note that the Council accepted my recommendations here and I declared myself satisfied with the outcome in December 2008. The net cost of this remedy to the Council was in the region of £37,000.

There are lessons the Council could learn from its own best practice in complaint handling that should be disseminated more widely across service areas.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 36 cases during the course of the year. The average time taken by the Council to respond was 34 days. This is disappointing for two reasons. First, because this is outside the 28 days I request for a reply to such enquiries. Second, because it represents a significant deterioration over the previous two years where average response times were 25 days or under.

I am aware that the way in which the Council responds to my enquiries has been affected by internal reorganisation. I am also of the view that the quality of responses is generally good. But I would urge the Council to see what it might do to improve its performance here over the next 12 months.

On a more positive note I was very pleased to welcome three Wolverhampton Officers of the Council who deal with complaints to my Link Officers Seminar last year. I understand they welcomed the opportunity to learn more about this organisation and the expectations that we have of councils when it comes to liaison with this office.

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 practice 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 am pleased to note that during 2008/09 we provided three training courses in Effective Complaint Handling to staff from your authority (one of which was provided specifically for staff at Wolverhampton Homes). I do hope that these courses have proved beneficial and will lead to further improvement in the Council's complaint handling in the year to come.

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
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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	Adult care services	Children and family services	Education	Housing	Benefits	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	1	0	15	3	1	0	5	26
Advice given	1	0	1	4	0	2	1	4	13
Forwarded to investigative team (resubmitted prematures)	0	0	0	5	0	2	1	5	13
Forwarded to investigative team (new)	3	0	10	6	2	2	0	9	32
Total	5	1	11	30	5	7	2	23	84

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	11	0	0	27	3	10	51

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	36	34.0
2007 / 2008	27	23.3
2006 / 2007	22	25.4

Average local authority response times 01/04/2008 to 31/03/2009

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