

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

**London Borough of Southwark
for the year ended
31 March 2010**

Local Government Ombudsmen (LGOs) provide 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, we aim to get it put right by recommending a suitable remedy. We also use 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 2009/10

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 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

In 2009/10 our advice team received 332 enquiries and contacts relating to the council, compared with 320 complaints and enquiries in 2008/9. Of these 167 were about housing, 42 about public finance, 30 about transport and highways, 18 about benefits, 12 about education, eight about children and family services, six about planning and building control, six about adult care services and 43 covered other areas including anti-social behaviour and environmental health.

A total of 164 were passed to the investigative team (141 new complaints and 23 resubmitted premature complaints). We treated 112 complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In a further 56 cases we gave the complainant advice.

Complaint outcomes

We decided 142 complaints against the council during the year. In 28 cases (20%) we found no evidence of maladministration, and 23 complaints (16%) were outside our jurisdiction. In a further 15 cases (11%) we exercised discretion not to investigate further. Typically these are cases where even though there may have been some fault by the council there is no significant injustice to the complainant.

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 2009/10, 26.9% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority 76 were local settlements, representing 63.9% of complaints within jurisdiction. This is a significant increase on last year's figure of 48%.

Once again my officers have found your staff very helpful and keen to settle complaints. In previous years we have raised concerns about the length of time the council has taken to implement local settlements. You said in your response to last year's letter that new systems had been introduced and I am pleased to report this year that the council's performance in this area has significantly improved, with compensation payments being made within several weeks of the

decision. I am very grateful for the council's efforts in this area.

During 2009/10 the council paid a total of £39,112 to complainants as a result of complaints to my office. I am grateful for the council's readiness to arrange redress when things have gone wrong and often before my officers have made a recommendation.

Housing

Once again housing matters account for the largest share of settled complaints at 66% of the total, compared with 56% last year. Complaints about housing repairs still form the largest group in this category, at 62% of all housing complaints. However this represents a significant drop from nearly 75% of all housing complaints last year and is perhaps a sign that the measures you have taken in respect of the repairs service (explained in your letter of 15 October 2009) are beginning to take effect. This year the council paid a total of £15,765 in compensation in repairs cases again showing a drop from £20,500 the previous year. I shall now comment on a few of the cases settled in this area.

In one case the council delayed for seven months in replacing a leaking shower. The complainant and her three small children had to wash at neighbour's property throughout this period. The council also failed to respond to her complaint until she complained to me. By this time the council had replaced the shower, but it agreed to pay the complainant compensation of £1,165 for the significant inconvenience she had experienced.

In another case the complainant had suffered from numerous leaks into her flat from the property upstairs over a period of years. The council had carried out ad hoc repairs but failed to find an effective solution. It delayed for 40 days in repairing the most recent leak and had only offered the complainant £260 compensation for the delay and her time and trouble. The offer did not take account of the history of complaints made by the complainant even though the council was aware of them and it also did not offer a way forward for the complainant who was left wondering when the problem would recur. The council agreed to complete the repairs and pay a total of £1,000 compensation for the distress and inconvenience sustained by the complainant over an extended period and for her time and trouble in pursuing the complaint. The council also agreed to check all the plumbing in the upstairs flat and make good any defects. If none were found it agreed to consider whether the upstairs tenants were in breach of their tenancy agreement and to review procedures in cases where frequent repairs are required due to external influences beyond the tenant's control.

In a third repairs case the council delayed for 18 months in repairing a serious leak in the complainant's property which had damaged a significant amount of his goods. It also failed to respond to his complaint about the matter or offer adequate compensation for the delay. The council agreed to pay £2,000 compensation and to consider a claim through its insurers for the damaged goods.

The council settled three complaints about homelessness. In one of these the council delayed for five months in informing the complainant of her registration on the housing register and her bidding number to enable her to bid for alternative accommodation. This followed a successful Judicial Review case where the court had decided that the council should have treated the complainant as homeless from December 2006. The council also failed to respond to the complainant's solicitor's letters about the matter. The complainant was living in unsuitable hostel conditions for longer than she should have. The council agreed to pay her £1,000 compensation and during the course of the investigation informed the complainant of her bidding number. She successfully bid for accommodation soon afterwards.

In a second case the council failed to give a complainant the correct registration date on the housing register when it made a decision that she was not intentionally homeless. As a result of

this error she missed out on bidding for suitable housing for which she would have had the highest priority. The council backdated her priority to July 2007 (from November 2008), agreed to make two direct offers of housing in areas of her choice and paid the complainant compensation totalling £879.

In one of nine settled complaints about housing allocations, the council suspended the complainant's housing application due to rent arrears. This was unjustified because the arrears were caused by a council error in paying her the correct housing benefit. The council had failed to notify the complainant of the suspension and so she had no opportunity to appeal or correct the error. As a result of these failings she lost out on a tenancy of a fourth floor flat with a lift. The complainant was later re-housed but in a third floor property with no lift. This proved very difficult for the complainant who had small children. She had applied for another transfer but had lost her homeless priority so would have to wait for a long time. The council agreed to meet with the complainant to establish her preferences for a property and make one offer of council three bedroom property between the fourth and sixth floor with a lift. It also paid her £1,150 compensation.

In another housing allocations case the council delayed for a total of 23 months in properly registering a complainant's application for a housing transfer. There was confusion and poor communication over the status of the complainant's former husband, which led to avoidable delays and the council gave no explanation for suspending her application. The complainant lived in unsuitable, overcrowded accommodation with her children for much longer than she should have done and had missed out on at least one offer of suitable accommodation. The council agreed to pay £2,000 compensation, send the complainant a letter of apology, make one direct offer of accommodation and amend the effective start date for her band two priority.

In another housing case the council failed to advise the complainants of their responsibility for water charges when they moved to a new-build property. The complainants were in their eighties and had paid water charges as part of their rent for the previous 50 years. After they moved, the council paid the complainants' rates, in error, for four years before correcting the problem without telling them. The complainants received a bill for £900 out of the blue and were very distressed by it. The council agreed to pay the sum of £900 compensation, equivalent to the arrears. It had already paid £180 for the delay in telling the complainants about the error.

Antisocial behaviour

In one of four settled complaints about antisocial behaviour the council delayed for over a year in responding to the complainant's complaints of antisocial behaviour by his neighbour's use of council sheds near his property which was only accessible over his land. The council had failed to respond to complaints for nearly a year, threatened him with legal action if he obstructed the land and did not consider a reasonable alternative resolution put forward by the complainant. He experienced significant frustration, inconvenience and unpleasantness from his neighbour throughout this period. The council agreed to meet with the complainant to find out more about the alleged nuisance, consider his suggestions for a resolution and find a mutually acceptable way forward. It also agreed to pay him £500 compensation for the failure to do this at an earlier stage.

In a second complaint, the council failed to respond reasonably to complaints about noise nuisance. Despite the fact that the noise had been brought to the council's attention in September 2007, the extent of the nuisance had not been established. The council offered to install recording equipment at the complainant's home without delay, decide on an appropriate course of action in the light of the evidence obtained and communicate this to the complainant. It also paid the complainant £1,000 for the frustration and inconvenience these failures had caused.

I welcome the measures you have outlined in respect of improvements to the council's anti-social behaviour unit, in particular the noise team and the increased training given to staff in housing

offices to deal with complaints of this nature.

Children's services

We settled one complaint about children's services where the council delayed for nine months in completing the stage two investigation causing the complainant significant frustration. The council agreed to complete the investigation as soon as possible and pay £1,000 compensation. If it did not complete the investigation by the end of August 2009 it was to pay further compensation. The council also agreed to cease using investigating officers from a particular agency to prevent future delays. The investigation was completed at the beginning of November 2009 and the council paid a further £300 to the complainant for not meeting the August deadline. The delays experienced in this case are reminiscent of those highlighted in last year's letter in respect of children and family services. Thank you for sending me the report following the external review of Children's Services carried out in May 2009, which noted that too many delays were occurring in complaint-handling. I am grateful for the detailed action plan you have outlined and hope the reduction in complaints to me on these matters continues.

Benefits

The council settled four complaints about benefits. In one of these the council failed to communicate with the complainant to explain the computer problems which had caused errors in her housing and council tax benefit claims and other errors which then occurred when the council tried to correct the situation. It also made avoidable errors in calculating the complainant's benefit and at one point suspended it completely for no reason. The rent department then failed to check with the benefits team before threatening to issue a Notice of Seeking Possession for resultant rent arrears. The complainant was on a fixed low income and experienced a lot of stress over threats of eviction. She had not previously been in rent arrears. The council agreed to pay the complainant £475 compensation and to review the benefit notification letters it issues to ensure they give clear explanations. It will also review guidance issued to staff ensuring that they check with the benefits team before threatening or taking possession action.

Local taxation

In one of four complaints about local taxation, the council took some time to agree with the complainant's solicitor what should be his liability for council tax. He appealed to the Valuation Tribunal and the council eventually conceded the case before it went to a hearing. The council also took recovery action during this process despite saying it would not. The council had offered the complainant compensation of £625 during its own investigation of the complainant's complaints. We considered this was reasonable in the circumstances and did not consider the council should pay for the costs incurred by the complainant in applying to the Valuation Tribunal.

Liaison with the Local Government Ombudsman

We made formal enquires on 95 complaints and I am pleased to report that the council's average response time has reduced to 32.5 days from a figure of 44 days in 2008/09. This is still outside our target time of 28 days but the significant improvement is welcomed. The changes implemented over the past year, in particular having a dedicated officer for Ombudsman enquiries, have been very positive. It is helpful that even when responses are delayed, your officer keeps my staff fully informed of the reasons for this.

Thank you for your comments on the proposals to publicise statements of reasons. This initiative is currently on hold while we settle into our new arrangements and will be considered further by the Commission at a later date. We will consider your views as part of this process.

Training in complaint handling

In previous years we have provided training in Effective Complaint Handling to staff from your authority. We have extended the range of courses we provide and 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 2010

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in Barking and Dagenham, Cambridgeshire, Medway and Sefton. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at www.lgo.org.uk/schools/

Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at www.lgo.org.uk/guide-for-advisers/council-response

Training in complaint handling

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

Statements of reasons

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

Delivering public value

We 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 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.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

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June 2010

Appendix 1: Notes to assist interpretation of the statistics 2009/10

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.

Premature complaints: 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 either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

Advice given: These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

Forwarded to the investigative team (resubmitted premature and new): These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to 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 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 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 LGO 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 LGO'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 LGO'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 2009/10

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	0	2	0	55	7	24	2	9	13	112
Advice given	0	1	2	27	1	7	2	8	8	56
Forwarded to investigative team (resubmitted prematures)	0	0	0	11	2	2	0	5	3	23
Forwarded to investigative team (new)	6	5	10	74	8	9	2	8	19	141
Total	6	8	12	167	18	42	6	30	43	332

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	76	0	0	28	15	23	142

Average local authority resp times 01/04/2009 to 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	95	32.5
2008 / 2009	121	44.0
2007 / 2008	119	40.2

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20