

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

**The London Borough of  
Barking & Dagenham**  
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 Barking & Dagenham Council 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Barking & Dagenham. 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

Last year, I received 123 enquiries and complaints about your Council, down from 139 in the previous year. Advice was given in 20 cases and 37 were considered to be premature, because the Council had not yet been given a reasonable opportunity to deal with them.

As before, the largest number of contacts was about housing: there were 43 enquiries and complaints, down from 59 in 2008/09. There were 13 contacts about education, down from 21. There were also fewer contacts about benefits and public finance, each of which received seven enquiries. On the other hand, there was a notable rise in contacts about children and family services: nine compared with only one in the previous year.

Our 'other' category also generated significant numbers of contacts (28). These were predominantly about antisocial behaviour and environmental health.

Sixty six complaints were passed on to my investigation team to consider. The complaints covered a broad range of services, but about a third (21) concerned housing issues. Of these, more than half (13) were about housing repairs. The second major subject of complaints was education. All but one of these 11 cases was about school admissions. Also of note was that six 'other' complaints about antisocial behaviour were forwarded for investigation.

## Complaint outcomes

This year I made decisions on 71 complaints against your Council. I closed 19 because there was either no or insufficient evidence of fault to warrant further investigation. A further seven complaints were outside my jurisdiction, generally because there was an alternative remedy which it was reasonable to have expected the complainant to pursue. I exercised my discretion not to pursue investigations into a further 22 complaints, including cases where the Council had already agreed to take sufficient action to remedy any injustice to the complainants or where the level of injustice claimed was insufficient to justify expending further resources on investigating the matter.

## 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 64 decisions on complaints within my jurisdiction against your Council, 35.9% (23) resulted in local settlements. This is higher than the national average, though similar to the level during the previous year (34%). The settlements we agreed included compensation payments of £6,670.

## **Complaints by Service Area**

### ***Housing***

Housing constituted the largest area of complaints. Ten of the 26 complaints were settled: this was close to half of all local settlements. I found no or insufficient fault to pursue six complaints and exercised my discretion not to pursue a further eight complaints. The two remaining were outside my jurisdiction. I comment below on the complaints received.

#### *Disrepair*

I made decisions on some 15 complaints about repairs issues. In four I found no or little fault, and I exercised my discretion to close a further four. In one of these cases, though I did not find fault by the Council, it responded readily to my proposal to reinvestigate matters and remedy problems with condensation. One complaint was outside my jurisdiction.

The remaining six complaints were settled. One complaint involved the Council's handling of repairs while the complainant was living in temporary accommodation following a fire. The matter remained unresolved for too long, though the complainant was also reluctant to move back to their original, smaller, property. Here, the Council agreed to cover the council tax on the home being repaired, to pay £200 towards heating and to carry out the remaining works. Another complaint involved a failure by the Council's contractors to replace the complainant's elderly mother's boiler, which would only allow hot water while the central heating was on. When, after two years, the boiler was finally replaced, the property was left in poor condition. I asked the Council to increase the compensation payment offered from £400 to £1,000.

One complaint involved a disagreement over the specification for works to rectify damp and infestation problems discovered after the complainant took over a new tenancy. As the property was unoccupied, housing benefit was stopped and rent arrears built up. I felt that the works proposed by the Council were reasonable, but there was delay by the Council at the outset. As a result, the Council agreed to waive half the rent arrears, equivalent to around £900.

Another complaint involved repair issues and an alleged failure to provide assistance with the complainant's disabilities. I found little evidence of fault, but the Council helpfully agreed to inspect the property for repairs and to carry out a social services assessment of the complainant's needs. In other cases, I asked the Council to pay £50 and £75 to complainants for failing to implement local settlements from earlier complaints to our office.

#### *Housing allocations and Homelessness*

I found no fault in one homelessness case, and the remaining two were settled. One involved a long delay in dealing with an application and in responding to the complaint. On making enquiries, the Council made a positive decision on the application and informed the complainant. Another complaint, with little underlying injustice, highlighted deficiencies in communications and poor wording in the Council's housing allocations policy. I asked the Council to pay the complainant £250 compensation for injustice caused, and revise its standard letters to include a reference to priority awards. I also recommended that the Council's allocations policy be amended, though I understand that the Council must first take into account the revised Code of Guidance issued in December 2009 and consult on this.

Two cases involved housing allocations. There was no fault in one, and the other was settled. This one involved a complainant whose medical condition made it very difficult for them to open the heavy communal doors. The Council delayed in arranging the occupational therapist's assessment, and then asked the complainant to arrange it at a time when budgetary restraints meant that it would not be carried out. The Council failed to consider properly the complainant's medical needs. After reassessment by the occupational therapist, additional preference was awarded. Ultimately the Council responded helpfully to resolve this matter, and agreed to pay the complainant £1,350 for missing opportunities to be re-housed in suitable accommodation, and a further £500 to recognise their time and trouble and the anxiety caused to them.

#### *Other*

There were six further complaints relating to leaseholders, private housing grants and managing tenancies. Four of these complaints were from one complainant. Of these, I exercised my discretion to close three complaints and the remaining complaint was settled. In that case, the Council had generally responded reasonably to the very extensive correspondence from the complainant. But there was an 18 month delay in processing a housing repair grant and failure to recognise its responsibility as landlord to carry out works to the back door, which constituted a Category 1 hazard due to the resulting cold. The Council agreed to pay the complainant £1,745 for delay and time and trouble.

Of the remaining two complaints, I used my discretion to close one, and the other was outside my jurisdiction.

#### ***Education***

There were 14 education complaints, of which 12 concerned school admissions. In nine of the admissions complaints, I found no or insufficient fault to warrant pursuing an investigation further. One complaint was outside my jurisdiction and I used my discretion to close a further two cases. As a result of the last two cases, the Council amended its admissions criteria to clarify the distance measurement for applicants from outside the borough. The Council also agreed to my recommendation that the clerk who attended the panel hearing should sign the decision letter.

The other education settlement involved an error in calculating a childcare grant, and delay in informing the complainant of this. This was settled by providing an explanation and reassessing the grant. Lastly, I used my discretion to close a complaint about alternative educational provision.

#### ***Other***

I made decisions on 13 complaints in the 'other' category, which includes complaints about a range of areas:

##### *Antisocial behaviour*

Five complaints involved antisocial behaviour. In one I found no fault in the Council's actions, and I used my discretion to close a further two. Two other cases were settled. In one, the Council had failed to deal properly with antisocial behaviour and a noisy dog. The Council was quick to agree an increase from the £250 compensation it had proposed to £500. In the other case, I asked the Council to pay a complainant £100 for poor communication about its investigation, and to send the complainant details of any proposed monitoring. But I did not uphold the allegation that the Council was at fault in not taking action against the complainant's neighbour.

### *Miscellaneous*

There were three complaints in this category, one of which I used my discretion to close. The second involved delay in responding to complaints about damage by Council contractors, processing an insurance claim and removing asbestos: I asked the Council to pay the complainant £300 and to take appropriate action. In the third, I asked the Council to pay £100 for delay in clarifying its responsibility for maintaining grass verges and trees in an area close to the boundary with the neighbouring council.

### *Standards Committees*

I received one complaint involving member conduct. I found no fault in the administrative process through which the matter had been considered by the Council's Standards Committee.

### *Environmental Health*

There were three decisions here: two complaints were outside my jurisdiction, and I used my discretion to close the third.

### *Contracts and business matters*

The sole complaint in this category was also outside my jurisdiction.

### **Public Finance**

All five complaints concerned Local Taxation. I found no fault in one case and used my discretion to close two cases, though I queried a charge applied by bailiffs and suggested maintaining records on closed accounts for a longer period.

Two complaints were settled. In one, the Council agreed to pay £150 compensation for an eight week delay in responding to enquiries about arrears and for failing to suspend bailiff action despite agreeing to do so. The other concerned council tax debts dating back several years. While I did not consider it reasonable to pursue the complaint because of the time passed, the Council agreed to send the complainant a "severely mentally impaired" form which might result in the granting of an exemption.

### **Transport and Highways**

The four complaints in this area related to parking. I used my discretion not to pursue two complaints, one of which involved consultation on a controlled parking zone which had taken place some years before.

Two complaints involving parking tickets were settled. In one case the Council provided photographs that had previously been requested and in the other, where the Council had delayed in processing a response to a PCN, cancelled the charge, stopped recovery action and amended a misleading reference on its website to how appeals against PCNs are decided.

### **Benefits**

I received three complaints about benefits, one of which was outside my jurisdiction and two of which were settled. In one of these, involving a £32 housing benefit overpayment, the Council started a fraud investigation and offered the complainant a caution. This was declined, and the Council then started court action. After the court date had been set, the Council decided not to pursue the court action. The complainant then successfully appealed the overpayment, and the Council's challenge to that decision was rejected as too late. The Council agreed to my suggestion

that it should pay the complainant £250 for their time and trouble and for the caution and threat of prosecution, which I felt were inappropriate and not in line with its policy.

### **Adult Care Services**

I closed two complaints about adult care services, both of which were settled.

In one case, the Council failed to explain properly or check the affordability of top-up fees for the complainant's mother's residential care. Since the complainant could have moved his mother when they became aware of this, I considered that the Council's offer to reinstate and backdate its higher-dementia rate was a reasonable settlement. The other complaint concerned the Council's decision to refuse residential care to the complainant's elderly mother who had experienced numerous falls. During the course of my investigation the complainant's mother experienced a further fall and the Council agreed to residential care and made changes to its website.

### **Children and Family Services**

Three complaints were decided in this area. I found no fault in one case, and used my discretion to close the other two cases.

### **Planning and building control**

I made a decision on just one complaint about planning and building control. I exercised my discretion not to pursue the complaint.

## **Liaison with the Local Government Ombudsman**

We ask councils to respond to our enquiries within 28 days. The Council's average response time was 32.4 days, which was disappointing given the Council's good record in recent years (last year's average response time was 23.9 days). There have been delayed responses to enquiries across a range of service areas, though responses on school admissions complaints were almost all within my target.

I understand that there have been changes to the structure of the complaints unit and that the increase in response times has in part resulted from resourcing issues during the year. However, given the importance that I know that the Council places on its complaints process, I would hope that the Council is able to address this issue going forward.

Your Corporate Complaints Manager and my officers have kept in regular contact throughout the year, on individual complaints and more general issues. I am pleased that one of your officers was also able to attend one of our seminars on *Making Experiences Count* for Adult Social Care complaints officers, and trust she found it useful.

I was also grateful to have the opportunity to present last year's Annual Review to members, and to respond to their questions.

## **Training in complaint handling**

I would like to take this opportunity to remind the Council that 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 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/](http://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](http://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**

<b>Enquiries and complaints received</b>	<b>Adult care services</b>	<b>Children and family services</b>	<b>Education</b>	<b>Housing</b>	<b>Benefits</b>	<b>Public Finance inc. Local Taxation</b>	<b>Planning and building control</b>	<b>Transport and highways</b>	<b>Other</b>	<b>Total</b>
Formal/informal premature complaints	3	5	0	14	2	3	3	2	5	37
Advice given	0	0	2	8	1	0	0	0	9	20
Forwarded to investigative team (resubmitted prematures)	0	0	0	2	0	1	1	1	2	7
Forwarded to investigative team (new)	2	4	11	19	4	3	2	2	12	59
<b>Total</b>	<b>5</b>	<b>9</b>	<b>13</b>	<b>43</b>	<b>7</b>	<b>7</b>	<b>6</b>	<b>5</b>	<b>28</b>	<b>123</b>

**Investigative Team**

<b>Decisions</b>	<b>MI reps</b>	<b>LS</b>	<b>M reps</b>	<b>NM reps</b>	<b>No mal</b>	<b>Omb disc</b>	<b>Outside jurisdiction</b>	<b>Total</b>
2009 / 2010	0	23	0	0	19	22	7	71

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	36	32.4
2008 / 2009	46	23.9
2007 / 2008	19	24.3

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

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