

**The Local Government Ombudsman's
Annual Review
Bath & North East Somerset
Council
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 Bath & North East Somerset Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Bath & North East Somerset 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 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

In 2009/10 we received 27 complaints and enquiries against your council, compared with 39 in 2008/09. Four were about adult care services, three about children and family services, five about transport and highways matters, 10 about planning and building control, one concerned public finance including local taxation and four complaints fell into the "other" category which covers issues such as anti-social behaviour and environmental health.

We treated six of these complaints as premature and referred them to the council and in a further three cases advice was given, usually to make a complaint to the council direct. The remaining 18 complaints were forwarded to the investigative team.

Complaint outcomes

In 2009/10 we took decision on 20 complaints. In seven cases we found no or insufficient evidence of maladministration. Three complaints were outside jurisdiction and in seven cases the council agreed to settle the complaint locally. Ombudsman's discretion was exercised not to investigate a further three cases. 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 seven were local settlements, representing 35% of the complaints decided. We recommended that the council should pay a total of £3,150 in compensation in 2009/10.

Planning and Building Control

Three of the settled complaints were in this category. Two of the complaints were about enforcement issues. We are aware that Bath is a World Heritage site and so development within the city can be met with strong feelings. We re-opened one case to further investigate the issues. An extension had been built without the permission requiring the use of Bath stone. Due to the

errors in the process the complainant was left not knowing whether, but for the faults by the council, the extension might have been built in Bath stone. Following a visit by one of my officers, the council agreed to pay £350 in recognition of the uncertainty and the time and trouble in pursuing the complaint.

In another case, five residents complained about noise from a nearby fast food van. A lack of co-ordination between the relevant council departments led to a delay in dealing with the noise issues. The council agreed to make payments of £200 to four of the complainants to acknowledge the distress caused. The fifth complainant lived much closer and had been complaining much longer so was paid £1,000 to recognise the higher level of distress and his time and trouble pursuing the complaint.

In the third planning case, the council failed to ensure that existing ground levels were properly recorded and so it was not able to easily tell if a building had been constructed higher than stated on the planning permission. This meant that the condition relating to building heights was unenforceable. The council carried out a further survey and took the view that the building was 300mm higher than it should have been. It decided that enforcement action was not expedient but paid the complainant £250 in recognition of his raised expectations.

Transport and highway management

We received a complaint that the council had failed to explain why a white line outside his property had been removed and then immediately replaced. The complainant wanted the line removed as it restricted his ability to park near his home. The council delayed in dealing with the situation and in explaining its actions to the complainant. It agreed to make a payment of £250 to recognise the delays. I am pleased to note that the council has also reviewed its procedures in respect of notifying neighbours when advertising a traffic regulation order.

Other

In another case, recorded under the "other" category, a complaint was made that the council had lost a file containing personal information relating to the complainant. The council had carried out extensive searches but could not locate the file. The Information Commissioner investigated the issue and took the view that breaches of the data protection act had probably occurred but he was unable to provide a remedy to the complainant. The council agreed to make a payment of £500 to compensate for the complainant's distress and his time and trouble pursuing the complaint. My officer's report that the council was very helpful in this case and quickly agreed to the settlement. I am grateful to the council for its help in settling with this and the other cases I have mentioned.

Liaison with the Local Government Ombudsman

We made formal enquiries on four complaints in 2009/10. In the annual review of 2008/09 my predecessor commented that the council's response times had improved and were within the target time of 28 days. Unfortunately, response times have increased to 33 days this year. I trust that you will look at this and seek improvement for next year.

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 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 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.

**Dr Jane Martin
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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 | Public Finance inc. Local Taxation | Planning and building control | Transport and highways | Other | Total |
|--|----------------------------|-------------------------------------|---|--------------------------------------|-------------------------------|--------------|--------------|
| Formal/informal premature complaints | 1 | 0 | 0 | 3 | 0 | 2 | 6 |
| Advice given | 0 | 0 | 0 | 2 | 1 | 0 | 3 |
| Forwarded to investigative team (resubmitted prematures) | 1 | 0 | 0 | 0 | 1 | 0 | 2 |
| Forwarded to investigative team (new) | 2 | 3 | 1 | 5 | 3 | 2 | 16 |
| Total | 4 | 3 | 1 | 10 | 5 | 4 | 27 |

Investigative Team

| Decisions | MI reps | LS | M reps | NM reps | No mal | Omb disc | Outside jurisdiction | Total |
|--------------------|----------------|-----------|---------------|----------------|---------------|-----------------|-----------------------------|--------------|
| 2009 / 2010 | 0 | 7 | 0 | 0 | 7 | 3 | 3 | 20 |

| Response times | FIRST ENQUIRIES | |
|------------------------|------------------------|----------------------------|
| | No. of First Enquiries | Avg no. of days to respond |
| 1/04/2009 / 31/03/2010 | 4 | 33.0 |
| 2008 / 2009 | 16 | 24.4 |
| 2007 / 2008 | 14 | 32.6 |

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 |