

**The Local Government Ombudsman's
Annual Review
Birmingham City Council
for the year ended
31 March 2010**

The 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 Birmingham City Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Birmingham City Council. I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

There are two appendices to the review: statistical data for 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

Our Advice Team deals with all initial contacts to the Ombudsmen and advise people who want to make a complaint. The Advice Team recorded 467 enquiries about your Council in 2009/10 and forwarded 238 complaints for my office to consider. The complaints we considered were housing (77), other (38), education (27), children and family services (24), adult care services (21), planning and building control (19), public finance (16), benefits (10) and transport and highways (6).

Complaint outcomes

My office made decisions on 237 complaints about the Council in 2009/10. In any one year, there can be a difference in the number of complaints received and the number of decisions made by my office. This is because some decisions will have been made on complaints received in the previous year and not all the complaints received in 2009/10 will have been decided by 31 March.

Local settlements

We will often discontinue enquiries into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. 26.9% of all decisions on complaints in the Ombudsmen's jurisdiction were local settlements. Of the complaints we considered about your authority there were 77 local settlements (36.7%) and I highlight a selection below.

Housing

There were 29 housing complaints resulting in local settlements with 17 of these relating to housing repairs.

One of the housing repair complaints identified a difference between practice and policy. The Council fitted an electric fire during Decent Homes work despite a request for a gas fire to be fitted. The Council policy was to fit a gas fire if a customer insisted and there was no structural reason that prevented one. The householder had been told there were structural reasons why a gas fire could not be fitted despite there being no inspection of the property. There was no reason why a gas fire could not be fitted and the Council agreed to fit one and review its policy and procedure to ensure they were consistent.

Another complaint was about repeated freezing of an outlet pipe from a boiler which required lagging. This led to three weeks of infrequent heating over the Christmas period. The tenant was unable to ignite the gas fire because of a carpal tunnel injury.

My investigation confirmed that the Council had acted in accordance with its repairs policy and that there had not been any unreasonable delay. However, the Council was aware that the tenant was disabled but there was no evidence that it asked how this disability might impact on their ability to deal with the problems being experienced, or what reasonable adjustments it could make to assist. The Council apologised for this failure and paid £100. The Council also offered to install an arthritic control knob on the gas fire to enable the tenant to operate it

A couple were decanted from their property during grant work to a property usually rented out by a relative. The work was estimated to take three months but the couple were still out of their property three years later. There were lengthy delays in the Council carrying out the work and remedying poor work. The Council agreed to remedy the outstanding work and paid a total of £4,298 which included elements for stress, time and trouble, lost rental income to the relative and a reduction in council tax payable on the property.

A property had been rendered uninhabitable following an arson attack. The Council failed to take a homeless application, delayed both repairing the property and reclaiming it when the tenant clearly did not want to return and had returned the keys. These faults prolonged the situation and so added to the debts being incurred. There were also delays and failures in dealing with claims for council tax benefit and housing benefit. The Council agreed to waive a years' rent and some council tax arrears and to pay £3,000 for the time, trouble, distress and confusion caused.

Education

There were five settlements of the 27 complaints received about education.

One of these settlements related to the Council's refusal of a request for a child to attend a special school and its failure arrange education provision following the child's permanent exclusion from school. The Council agreed to pay £1,000 for the lost education, £500 for the delay in properly addressing the request for a special school and a further £1,000 for the significant time, trouble and distress caused to the parent and child.

There was a further complaint about education provision with respect to three children where the Council could have been much more active in providing assistance to secure school places. For the children's lost education, the Council agreed to pay £4,125, £4,500 and £1,500 respectively. The Council also agreed to pay a further £375 to the mother for the time, trouble and distress suffered during the time when the children were unable to attend school. The payments for the children's lost education will be held in trust by the Council to be spent on additional education or training, or to purchase materials to assist the children in their chosen career or training path.

The remaining settlements relating to education were about school admission appeal hearings and resulted in fresh appeals.

Children and family services

There were seven settlements of the 40 complaints investigated.

One complaint related to a child being voluntarily accommodated by the Council. When the mother requested her child be returned there were significant delays over a period of 16 months in progressing the required assessments and reports. During this period, contact was also cancelled or significantly late on a number of occasions. Once a residential placement had finally been arranged, the child was returned to the mother within seven weeks. The Council agreed to pay £2,500 for the extended period of time the child was in s20 care.

Adult care services

There were seven settlements of the 35 complaints investigated.

The Council did not take into account the medical condition of the complainant when deciding there was no need for a level access shower. There may have been communication difficulties here and the involvement of a family member helped clarify the needs. The Council was very willing to review the situation and reached a new decision to provide the shower.

Public finance

There were six settlements of the 16 complaints about public finance all relating to local taxation. The majority of these related to failures in administering recovery action including the use of bailiffs.

Benefits

There were six settlements relating to benefits. Four of these related to council tax benefit and two to housing benefit.

The Council agreed to cancel a summons and associated costs on a complaint about council tax where errors had been made on a very complex set of accounts. The complainant rented out a number of properties some of which were HMOs. Payment was made with one cheque and a request for the Council to apportion the funds. The Council very reasonably appointed one officer to deal with the situation but continue to be thwarted by the complainants' own actions.

There was delay in dealing with a request for housing benefit to be paid direct to the landlord which resulted in the loss of two weeks' rent. The Council agreed to pay this which was £129.

Transport and highways

There were four settlements of the six complaints investigated. These all related to the same issue where an engineer had agreed highway changes which resulted in a loss of parking spaces. The Council agreed to make attempts to reinstate the parking spaces which would be subject to consultation. The Council also issued instructions for its engineers when agreeing bell mouth agreements to avoid a similar situation happening.

Other

The Council failed to take timely and effective action over a visitor to a block of flats who assaulted and taunted the complainant. The Council agreed to implement an action plan which included refresher training for concierges and security staff and improved liaison between these staff and area housing officers. The Council also met with the complainant.

Liaison with the Local Government Ombudsman

We made 86 formal first enquiries of the Council in the year 2009/10 and the average response time to these was 32.1 days. This is slower than the target of 28 days but a slight improvement on last year (33.3 days).

The quickest response times were for transport and highways sole complaint (17 days) and education (19.2 days) and benefits at (23 days). The slowest response times were for other (43.7 days) and adult care services (41.7 days).

I am pleased that the Council was able to send two delegates to our Liaison Officer Seminar.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I hope this review provides a useful opportunity for you to reflect on how the Council deals with those complaints that residents make to my office. If there are any issues that you wish to discuss, I or one of my senior colleagues would be happy to meet with the Council.

**Mrs A Seex
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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 | 9 | 9 | 2 | 47 | 14 | 35 | 8 | 8 | 19 | 151 |
| Advice given | 7 | 5 | 5 | 24 | 3 | 10 | 6 | 1 | 17 | 78 |
| Forwarded to investigative team (resubmitted prematures) | 3 | 2 | 0 | 24 | 3 | 6 | 8 | 1 | 12 | 59 |
| Forwarded to investigative team (new) | 18 | 22 | 27 | 53 | 7 | 10 | 11 | 5 | 26 | 179 |
| Total | 37 | 38 | 34 | 148 | 27 | 61 | 33 | 15 | 74 | 467 |

Investigative Team

| Decisions | MI reps | LS | M reps | NM reps | No mal | Omb disc | Outside jurisdiction | Total |
|-------------|---------|----|--------|---------|--------|----------|----------------------|-------|
| 2009 / 2010 | 0 | 77 | 0 | 0 | 81 | 52 | 27 | 237 |

| Response times | FIRST ENQUIRIES | |
|------------------------|------------------------|----------------------------|
| | No. of First Enquiries | Avg no. of days to respond |
| 1/04/2009 / 31/03/2010 | 86 | 32.1 |
| 2008 / 2009 | 147 | 33.3 |
| 2007 / 2008 | 232 | 36.5 |

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 |