

**The Local Government Ombudsman's
Annual Review
London Borough of Havering
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 Havering 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Havering. 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 114 enquiries and complaints about your Council; little changed from the 112 in the previous year. Advice was given in 28 cases, and 32 were considered to be premature because the Council had not yet been given a reasonable opportunity to deal with them.

As before, housing was the service which generated by far the largest number of contacts (51, up from 43 previously). Other contacts largely concerned education (9), planning (9) and benefits (also 9).

Fifty five complaints were passed on to my investigation team to consider. Almost half (26) concerned housing, of which 13 were about housing repair issues, five related to homelessness and five concerned housing allocations.

Complaint outcomes

This year I made decisions on 59 complaints against your Council. Ten were outside my jurisdiction to investigate, generally because the complainant had an alternative means to remedy matters which it was reasonable to expect them to have pursued. I closed another 10 complaints because there was either no or insufficient evidence of fault to justify further investigation. In a further 16 cases I decided the injustice to the complainant did not justify my continued involvement.

Reports

When we complete an investigation, we generally issue a report. This year I published two reports against your Council.

One report was a joint investigation with the Health Service Ombudsman and concerned lack of support at home for the complainant's wife, who had subsequently died after being sectioned and then breaking her leg in hospital. The Health Service Ombudsman found the Health Trust to have been at fault, but I did not uphold the substantive complaint about the Council's actions.

My other report concerned a housing repairs case. The complainant had accepted the Council's offer of re-housing and had made a claim for housing benefit at the new property and stopped the claim for their private rented accommodation. But there was no gas connection and so no heating or hot water at the property. The complainant was unable to move in and had to remain in and

continue paying rent for their privately rented accommodation and told the Council. It delayed for about two months before establishing a safe gas connection at the new property. Meantime, it charged the complainant rent but, as they were not living at the property, they were not entitled to benefits and the Council pursued the complainant for a housing benefit overpayment. So in a situation where, if the new property had been fit to let the complainant's rent would have been met by their housing benefit entitlement, they were having to pay rent at two properties with no entitlement to housing benefit at either.

The Council agreed to reimburse the complainant the sums for which they would not otherwise have been liable, and to pay the complainant £350 for their time and trouble in dealing with matters. I was particularly concerned about the Council's inadequate response in this case as it could well have accepted similar terms when they were proposed as a local settlement 10 months earlier: it was reluctant to accept fault despite what I consider was clear evidence.

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 49 complaints within my jurisdiction which we decided against your Council, 42.8% (21) resulted in local settlements. This is significantly higher than both the national average and the level during the previous year (25.5%). The report I issued and the settlements I agreed resulted in the Council paying a total of £10,829 in compensation, as well as taking other actions to remedy matters and improve working practices.

Complaints by main subject areas

Housing

In addition to my report I decided 20 complaints about housing issues. There was either no or insufficient evidence of fault to pursue investigations into six complaints, two were outside my jurisdiction and I exercised my discretion not to pursue matters in a further three cases because further expenditure of public funds was not justified by the injustice.

I agreed to settle nine housing complaints, including five cases where there had been delays in addressing dampness or water penetration problems. The Council took remedial action and paid a total of £1,350 compensation in order to address these matters. Another settlement was arranged where the Council had given a re-housing applicant the wrong priority banding for a period of around 18 months and had lost some personal information the complainant had provided. The Council paid £500 compensation in that case.

But I also noted the Council's positive approach and willingness to take suitable remedial action with a number of complaints. One example was a disrepair case where a vulnerable tenant was affected by a leaking roof which could not be repaired immediately. In that case the Council took into account the complainant's mental health needs in deciding to make an offer of alternative accommodation in order to resolve matters more quickly.

Benefits

I made decisions on six complaints about benefits. Two resulted in local settlements leading to compensation payments totalling £495. One case involved an unreasonable delay and mishandling of a claim for backdated housing benefit entitlement. In another case, the complainant was a landlord awarded compensation where the Council had continued paying benefit to his tenant despite knowing there were rent arrears. The tenant then left the property having failed to pass on

the benefit.

Adult care services

In addition to my report, I decided four complaints about adult care services. Three of these were local settlements. In one case, the complainant had complained on behalf of their sibling about a delay in carrying out a community care assessment and then putting services in place to meet assessed needs. I concluded that without this delay services would have been in place some 13 months earlier, and that £1,300 compensation was appropriate to recognise this. But the Council was extremely slow in responding to the local settlement proposal and, when it did, it failed to address all of the issues raised.

I found the Council responded much more positively in another instance, where there had been a delay in carrying out a carer's assessment for a complainant caring for their disabled adult child. In that case the Council readily accepted my proposal that it should pay £500 compensation, and it had already taken steps to prevent a recurrence of the problem by changing its practices.

Education

Of the five education complaints I decided, one was outside my jurisdiction to investigate and I exercised my discretion not to pursue matters in two other cases.

In one case I decided a compensation payment of £350 was in order where the Council had failed to finalise a statement of special educational needs and delayed in setting up online learning provision. Another local settlement was agreed on the basis that the Council offered a fresh school admission appeal hearing where there had been some unfairness in the organisation of the original appeal.

Anti-social behaviour

There were four decisions on complaints about anti-social behaviour. I found no or insufficient evidence of maladministration in one case and used my discretion not to pursue matters in another. The other cases were concluded with local settlements. The most significant of these involved compensation of £500 where an environmental health investigation was delayed and mishandled before a noise abatement order was obtained and the Council's investigation into a possible breach of planning control was flawed.

Public finance

Both of my decisions in this area concerned local taxation and resulted in settlements. In one case the Council took over six months to transfer credit from the complainant's previous business rates account to their new one and to notify them of the adjusted liability. In the meantime, the complainant was summonsed for non payment. The Council agreed to settle matters with compensation of £1,276 which covered all the legal and bailiff's costs the complainant had incurred and included £100 for his time and trouble. The other settlement was recommended because of the poor handling of council tax arrears: the Council failed to respond to the complainants' letters and used bailiffs without due notice. The Council provided an effective settlement by apologising, withdrawing the bailiffs' costs and paying £250 compensation.

Liaison with the Local Government Ombudsman

We ask councils to respond to our enquiries within 28 days. The Council's average response time was 29.7 days, which is a disappointing deterioration from last year's average of 24.2 days. One response took 78 days. I note that the Council failed to keep to the 28 day target in nine of the

15 housing cases on which we made enquiries this year. In the circumstances I suggest the Council may wish to focus its efforts on trying to improve response times in that particular service area. In contrast, responses to education complaints averaged 19.4 days.

I recognise the relatively low capacity of our email servers means some large files cannot be emailed together and therefore some responses may take longer to receive, and your concerns about the way we measure response times. But the way we measure performance is consistent across councils and all council's face the same issues regarding emails and most manage to meet our targets. However, we have a programme of IT changes underway which should improve matters.

I am aware that your complaints staff and my officers have kept in regular contact throughout the year, on individual complaints and more general issues. I trust that we can continue to develop constructive ways of working together on complaints.

Training in complaint handling

I am pleased that one of your officers was able to attend one of our seminars on *Making Experience Count* for Adult Social Care complaints officers, and trust she found it useful. I also note that one of my senior investigators recently gave a presentation on our work at a training session you had organised for school admission appeal panel members, and I understand this was found to be of benefit.

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/

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	2	2	0	15	2	3	6	0	2	32
Advice given	0	1	3	10	2	2	1	3	6	28
Forwarded to investigative team (resubmitted prematures)	0	0	1	6	2	0	2	0	2	13
Forwarded to investigative team (new)	2	1	5	20	3	1	0	1	8	41
Total	4	4	9	51	9	6	9	4	18	114

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	21	0	1	10	16	10	59

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	31	29.7
2008 / 2009	32	24.2
2007 / 2008	33	25.9

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