

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

Kirklees Metropolitan 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 Kirklees Metropolitan Borough Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Kirklees Metropolitan Borough 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 110 enquiries about your Council in 2009/10 and forwarded 66 complaints for my office to consider. The complaints we considered were planning and building control (20), education (13), other (8), public finance (6), children and family services (5), adult care services (4), benefits (4), transport and highways (4) and housing (2).

Complaint outcomes

My office made decisions on 60 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.

Reports

I issued one report about two related complaints about your Council during the year 2009/10. This was about the way the Council granted permissions for a listed building to be demolished and a new residential development to be built on the site. The investigation found errors and omissions in the information provided to the committee that granted the permissions and that this had caused the injustice of a potential loss of heritage and local character. I recommended that the Council should negotiate for the permissions to be relinquished in favour of a new scheme and for it to meet the reasonable design and application costs. If negotiations failed, the Council should consider revoking the permissions after considering a full report on all the relevant issues.

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 Ombudsmens' jurisdiction were local settlements. Of the complaints we considered about your authority, 20 led to a local settlement (34.5%). I highlight a selection below.

There was one complaint relating to council tax about the incorrect issuing of three summonses and three liability orders and minor accounting errors. The Council agreed to pay £606.62 in total, to include £450 for the upset and time and trouble as well as adjustments to the council tax account and a refund of costs.

There were two children and family settlements. One related to the incorrect level of foster carer

allowance being paid which resulted in a payment of £1,300 being made by the Council. The other complaint related to delays in allocating a social worker; approving disabled facilities grant works and making direct payments to the parents of two disabled children. The Council had undertaken a thorough investigation into this complaint before it was forwarded to my office and the majority of the remedy had already been agreed. The final amount of the remedy agreed was £44,188.

There were two settlements relating to school admission appeal hearings where fresh appeals were agreed by the Council.

There were two settlements relating to delay and failing to keep complainants in touch with progress on enforcement matters. Both matters were remedied by the Council taking action and the payment of £100 for one.

There were four settlements relating to local taxation. One was about the wrongful serving of a council tax summons for which the Council apologised and paid £50. Another related to a delay of over three years in refunding council tax of just under £700. The Council apologised, made the refund and paid £100 for lost interest and time and trouble.

Other

In investigating a complaint about a planning matter, I was concerned to learn that the Council had carried out works at a school before planning permission had been granted. I closed the complaint because the Council's maladministration had not caused the complainant any significant injustice. However, in my final letter to the Chief Executive I expressed my concern about this and that the Education Department had missed the simple solution of submitting its planning application early enough to ensure it was determined well before the end of the school summer holidays (for when the works were planned). I pointed out that, as a local planning authority, the Council had set a bad example – not least by inviting its citizens to conclude that it treats its own planning applications as foregone conclusions. I asked the Chief Executive to draw my concern to the attention of relevant officers with a warning that similar action in future might lead to strong criticism by me.

Liaison with the Local Government Ombudsman

In recent years the Council has been positive and highly responsive to our requests for information. As a result, we have made fewer formal enquiries of the Council. The formal enquiries that we have made tend to be about complaints that are complex and challenging. I want to take the opportunity to record my appreciation of the Council's approach and the very effective relationship between my staff and the Liaison Officer.

We made nine formal enquiries involving 11 complaints and for most subjects the response times were well within the 28 days that we request – benefits 19 days, education 22 days, other 16 days. The complexity of the cases is reflected in the longer average response times for children and family complaints of 49.5 days and for planning of 59 days. The planning statistic includes one response to three complaints when you sought Counsel's opinion before responding. This was an appropriate step for the Council to take but did, inevitably, result in a delayed response with a triple effect on the statistics.

I am pleased that the Council was able to send 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
Local Government Ombudsman
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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.

**Mrs A Seex
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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	1	1	0	11	1	1	7	2	3	27
Advice given	0	2	2	2	0	0	1	3	7	17
Forwarded to investigative team (resubmitted prematures)	0	1	0	0	1	3	5	0	4	14
Forwarded to investigative team (new)	4	4	13	2	3	3	15	4	4	52
Total	5	8	15	15	5	7	28	9	18	110

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	2	20	0	0	11	25	2	60

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	11	55.7
2008 / 2009	41	23.0
2007 / 2008	48	22.9

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