

**The Local Government Ombudsman's
Annual Review
Luton Borough 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 Luton Borough Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Luton Borough 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 71 enquiries and contacts relating to the council. A total of 18 were about public finance (including council tax), 11 about planning and building control, nine about benefits, seven about housing, six about transport and highways, six about children and family services, four about education, three about adult care services and seven about other matters such as anti social behaviour.

A total of 38 complaints were passed to the investigative team comprising 34 new complaints and 4 resubmitted premature complaints. We treated 21 complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In a further 12 cases we gave the complainant advice.

This is broadly comparable with the number of complaints and enquiries in 2008/09.

Complaint outcomes

We decided 33 complaints against the council during the year. In 12 cases we found no evidence of maladministration, and four complaints were outside our jurisdiction. In a further six cases we exercised our discretion not to investigate further. Typically these are cases where even though there may have been some fault by the council there is no significant injustice to the complainant.

Reports

When we complete an investigation, we generally issue a report. This year we issued one report against the council. In this case my predecessor found that the council unfairly evicted the complainant and her young child for rent arrears while her request for a review of its decision that she had been overpaid housing benefit was pending. It also delayed in carrying out that review. The council cancelled the overpayment as a result of the review which reduced her rent arrears to a level below which the council would normally seek an eviction. As a result of the council's actions, the complainant was made homeless and was not in settled accommodation for a further eight months. My predecessor recommended that the council make a compensation payment of £5,000 to the complainant for the significant distress she experienced, to be offset against any outstanding debt to the council. This resulted in the council making a payment of £4,010 to the complainant. I am pleased to note that the council agreed to settle the complaint in this way.

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 10 were local settlements, representing 34.5% of complaints decided, an increase from three settlements agreed in 2008/09. In this letter I will deal with some of the more noteworthy cases.

Adult Social Care

In this case the complainant was caused distress by the council's flawed protection of vulnerable adults investigations into allegations made against her and it failed to share the outcome of the investigations with its NHS partners. My predecessor recommended that the council apologise and make a compensation payment of £2000 to the complainant for the distress caused to her and send a copy of the apology to the other organisations involved in the investigation. We also recommended that the council ensure staff were aware of the importance of good complaint handling and consider the appropriateness of compensating service users' families when things go wrong.

Children and Family Services

The complainant's former partner was considered to pose a risk to her and her children but the council failed to review an assessment of this risk when he was released from prison and housed him close to the complainant's home. The council also delayed in improving security at the complainant's home. My predecessor concluded that the council's actions caused significant distress and anxiety to the complainant and recommended that the council make a compensation payment of £2,000. The council also undertook to improve communication between its Children and family services and housing departments to ensure such problems do not recur.

In another case, the council delayed in clarifying the surname of sisters who were in foster care so they did not have a legal surname for approximately two years, failed to ensure one sister received appropriate educational support and delayed in referring the other sister for therapeutic support. It also delayed in dealing with the complaint put to it by the complainant. We concluded that the council's actions had caused significant distress to the complainant and recommended that the council make compensation payments of £1,000 to each of the sisters and £500 to the complainant.

In a further case, the council's communication with the prospective carer of a child was poor. As a result the complainant was given the impression that the council had changed its position about his suitability as the child's carer and he incurred legal costs in pursuing an unsupported residency application. The council agreed to pay the complainant's legal costs which amounted to £5,615.54 and £500 compensation. It also undertook to remind officers to properly inform families of the procedures to be followed in such cases.

The council also agreed to settle one other complaint in this category.

Education

The complainants sought an appeal against a school's governing body's decision to uphold the head teacher's decision to permanently exclude their child. The council is required to arrange for such an appeal to be heard by an independent appeal panel within 15 school days and membership of that panel must include a serving head teacher or someone who has been a head teacher within the last five years. In this instance the council took 11 months to arrange the hearing as it was unable to appoint a member who was or had been a head teacher. The council offered an

alternative school place for the child after his permanent exclusion so his education was not disrupted. The complainants also chose to keep the child at that school despite their appeal being successful when it was heard. But they were caused uncertainty by the delay and time and trouble in pursuing their complaint so we recommended that the council make a compensation payment of £250 to them. We also recommended that the council urgently review its strategy for recruiting panel members.

Housing

In this case the complainant was seeking a housing transfer to supported accommodation. The council sought information from a health trust to establish his medical need for supported accommodation but the health trust failed to reply which caused an eight month delay in assessing his medical need. Although the health trust contributed to the delay, the council should have taken steps to obtain the information from the health trust sooner and more assiduously. On receipt of the information the council agreed that the complainant had a medical need for supported accommodation and shortly afterwards made an offer to him. Although it was unclear if the delay in obtaining the information meant he could have moved earlier, we concluded that he had been caused unnecessary distress and anxiety by the delay. The council agreed to make a compensation payment of £300 to the complainant.

Benefits

The complaint has parallels with the complaint that my predecessor issued a report on. In this case the council delayed in acting on the complainant's request for a review of its decision that he had been overpaid housing and council tax benefit. The complainant had an advocate acting for him as he was vulnerable but the council refused to deal with them as it considered that the advocate did not have his consent despite the complainant giving this during a telephone call with the council. There was also a delay of nine months in crediting a claim for backdated benefit to his rent account and a delay of eight months in dealing with a request to reduce deductions taken from his ongoing benefit entitlement. The complainant was eventually granted an out of time appeal by the Appeals Service which was partially upheld. The council had commenced possession proceedings against the complainant for rent arrears as he had failed to adhere to repayment plans, but the faults in dealing with his benefits claims meant that it did not have an accurate picture of his arrears. We could not conclude that the council was wrong to take possession proceedings as the complainant had not repaid his arrears as agreed, but its actions caused him unnecessary distress. During the course of our investigation the council agreed to write off all of the overpayment and refund deductions taken from his ongoing benefit entitlement which we considered to be a reasonable settlement of the complaint.

In a further complaint about benefits, the council wrongly advised the complainant that he was entitled to receive housing benefit on two properties for a four week period when he was in fact not eligible. He had to pay £258.80 in rent which he expected to be covered by housing benefit. The council accepted its advice to the complainant was flawed and made a payment of £258.80 to him to cover the rental payment.

Local Taxation

The complainant said that she had made a payment of £500.80 towards her council tax arrears. The council's position was that she had cancelled the payment but it could not provide any documentary evidence to support its position whereas the complainant could provide credit card statements to show the money had not been credited to her account. The council agreed to write off the payment and made a payment of £100 to the complainant for her time and trouble in pursuing the complaint.

Overall the council paid a total of £21,534.14 in compensation in 2009/10 for the case we reported

on and for those locally settled.

Liaison with the Local Government Ombudsman

We made formal enquiries on 22 complaints this year and the council took an average of 30 days to reply to my enquiries. Although this is outside the 28 day target I set for councils, it is a welcome improvement on the council's performance in the last two years. I trust the council will continue to improve its performance in this area in order to meet the target in 2010/11.

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.

In 2008/09, we provided training in effective complaint handling to staff from your authority. We have extended the range of courses we provide and 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	1	1	0	2	4	6	2	2	3	21
Advice given	1	0	0	1	2	4	1	0	3	12
Forwarded to investigative team (resubmitted prematures)	0	1	0	0	0	3	0	0	0	4
Forwarded to investigative team (new)	1	4	4	4	3	5	8	4	1	34
Total	3	6	4	7	9	18	11	6	7	71

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	10	0	0	12	6	4	33

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	22	30.0
2008 / 2009	25	35.1
2007 / 2008	26	47.7

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