

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

Introduction

This annual review provides a summary of the complaints we have dealt with about Maidstone 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 our Advice Team handled 26 enquiries about your Council. This included three enquiries where we considered a complaint to the Ombudsman was premature and so we referred them to your Council for investigation. Advice was given to the caller in one other case. The remaining 22 complaints were passed to the investigative team. As in 2008/09, planning and building control accounted for the largest number of enquiries and this was reflected in the 14 complaints in this category that were forwarded to the investigative team.

Complaint outcomes

This year we made decisions on 22 complaints against your Council. In four cases, there was no, or insufficient, evidence of fault by the Council to warrant further investigation. In seven cases we exercised discretion not to investigate the complaints because the injustice to the complainant was not significant or the Council had already provided an adequate remedy. Five complaints were outside my jurisdiction.

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 17 complaints we decided against your authority, which were within my jurisdiction, six (35%) were local settlements, rather higher than the average. The Council paid £425 compensation in total to settle three of these complaints; in the other three cases, the Council agreed to take action which provided a satisfactory remedy to the complaints.

Planning and Building Control

Planning applications

We found some faults in the way the Council considered applications for planning permission to convert stables to use for residential and holiday purposes. In particular, we criticised the failure to take notes of a meeting between a planning officer and the applicant's agent. We also considered the planning officer's report did not take proper account of concerns raised by the complainant about the potential impact of the proposed development on privacy, security and noise levels.

However, we could not conclude that the decision to grant planning permission would have been different but for these faults, so recommended a payment of £300 to recognise the complainant's time and trouble in pursuing the complaint and her concerns about the process.

In another complaint about the Council's handling of a planning application to extend a neighbouring property, we found no fault in the way the Council decided to grant planning permission. However we did criticise the Council for incorrectly addressing a letter notifying the complainant of the application, which delayed its delivery and reduced the time available to the complainant to respond and to lobby Parish Councillors. The Council apologised for this fault and paid £75 compensation.

Planning enforcement

We settled four complaints about planning enforcement matters. These complaints were made in the context of a backlog of undecided enforcement cases but the Council has since put in place procedures to reduce the backlog and to manage and prioritise cases.

Two of these complaints were made by residents who lived close to the same site – an equestrian centre. The complainants had complained about the way in which the Council had addressed various apparent breaches of planning control at the riding school. The complaints included the erection of temporary buildings, the use of mobile homes on the site, the erection of a stable block and a coffee shop and the number of equestrian events held at the centre. My investigator arranged a meeting with planning officers to discuss the way forward. It was agreed that the Council would encourage the proprietors to submit a planning application for the non-conforming uses and consider whether to take enforcement action for some unauthorised uses if no planning application were submitted. My investigator monitored the action taken by the Council three months after he issued the final decision letters. The Council provided a summary of its investigations about each alleged breach of control and the action it proposed to take. A further complaint was subsequently made by one of the complainants, but a decision had not been made by the close of the 2009/10 year.

The third complaint was about changes in the use of a horticultural nursery. The complainant was concerned about increased noise and nuisance, and road safety issues, arising from the changing use of the site. Officers were initially slow to admit any fault, taking the view that the proprietor had permitted development rights to sell items other than horticultural products. But after meeting my investigator to discuss the complaint and to agree a way forward, they decided to invite the proprietor to apply for planning permission for a garden centre which would enable conditions to be imposed to control the use and hours of operation of the site. The Council also apologised to the complainant for its failure to keep her informed of developments.

In the fourth complaint, we found some fault in the way the Council communicated with the complainant about its decision not to take enforcement action in relation to the replacement of windows in a listed building. The complainant was put to some time and trouble in contacting the Council to clarify the status of a letter and the Council agreed to pay £50 in recognition of its faults.

Liaison with the Local Government Ombudsman

On average, the Council took 20.2 days to reply to our initial written enquiries on complaints. That is well within the target timescale of 28 days we have set for all councils. It is also an improvement on last year's performance of 25.6 days, although I note there was a slight reduction in the number of complaints on which we needed to make written enquiries this year.

One of my investigators attended a meeting with your officers to discuss two planning enforcement complaints. He commented that the meeting was constructive, helped him understand the key issues and led to a satisfactory local settlement of these complaints.

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 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.

**Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
Millbank
London
SW1P 4QP**

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.

Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
Millbank
London
SW1P 4QP

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	Benefits	Public Finance inc. Local Taxation	Planning and building control	Other	Total
Formal/informal premature complaints	1	1	0	1	3
Advice given	0	0	1	0	1
Forwarded to investigative team (resubmitted prematures)	0	1	1	0	2
Forwarded to investigative team (new)	3	1	13	3	20
Total	4	3	15	4	26

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	6	0	0	4	7	5	22

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	17	20.2
2008 / 2009	20	25.6
2007 / 2008	14	23.5

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