

**The Local Government Ombudsman's
Annual Review
Manchester City 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 Manchester City Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Manchester City 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 174 enquiries and contacts relating to the council. A total of 48 of these were about housing, 22 about public finance (including council tax), 15 about adult care services, 14 about benefits, 12 about education, nine about children and family services, seven about transport and highways, five about planning and building control and 42 other complaints about such matters as anti social behaviour, drainage and licensing.

A total of 94 were passed to the investigative team comprising 78 new complaints and 16 resubmitted premature complaints. We treated 51 complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In a further 29 cases we gave the complainant advice.

This is broadly comparable with 183 complaints and enquiries in 2008/9, 87 of which were forwarded to the investigative team.

Complaint outcomes

We decided 101 complaints against the council during the year. In 27 cases we found no evidence of maladministration, and 17 complaints were outside my jurisdiction. In a further 26 cases we exercised 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 the council made the complainant bankrupt for non payment of council tax. My predecessor considered that the council was wrong to seek bankruptcy in this instance as it did not have a written procedure to guide officers in taking bankruptcy proceedings, it failed to consider an attachment of earnings as an alternative to bankruptcy proceedings despite this being a feasible option and failed to give the complainant adequate warning that it could make him bankrupt before issuing the statutory demand. But my predecessor was mindful that the complainant could have taken action to halt the bankruptcy proceedings so he did not recommend that the council meet the costs of the bankruptcy. Instead he recommended that the council pay compensation of £1,000 to the complainant in acknowledgment at his outrage that an attachment of earnings was not considered and that he was not warned that the council was considering

bankruptcy before the service of the statutory demand. The council has expressed reservations about my predecessor's recommendations and we will continue to discuss the issues with the council to seek a way forward.

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 30 were local settlements, representing 35.7% of complaints decided. I recommended that the council should pay a total of £14,725 in compensation in 2009/10 for the case we reported on and for those locally settled. In this letter I shall deal with some of the more noteworthy examples.

Children and family services

The council had assessed the complainant as requiring respite care for her child and agreed to make direct payments to the complainant in order for her to choose and purchase her own care. Due to the council's budget position it did not make the payments and put the complainant on a waiting list of unmet need but did not review her position on the waiting list for two years. As a result the complainant did not have access to respite care. The council agreed to pay the complainant the direct payments she was entitled to, make a compensation payment of £350 for time and trouble and review its procedures for making direct payments.

Antisocial Behaviour

The complainant suffered noise nuisance over three years caused by a neighbour who had significant mental health problems. The neighbour was a council tenant but became a tenant of a housing trust when ownership of the property was transferred during the time of the complaint. The neighbour was supported by the local mental health trust to live in the community. My predecessor found that the council was at fault in not having a protocol with the mental health trust for dealing with complaints of antisocial behaviour by their clients as a result of their own needs in delaying taking possession proceedings in the face of evidence of the extent of the nuisance the neighbour was causing and in not encouraging the housing trust to take such action. My predecessor also considered that the council was preoccupied with the neighbour's mental capacity when this was a matter for the Court and this contributed to the delay in taking action. The council agreed to make a payment of £3000 to the complainant and to establish a protocol with the mental health trust. I am pleased to note that the council also agreed to make the same payment to another neighbour who had also been affected but who had not complained to my predecessor.

Housing

We dealt with a number of complaints about housing repairs. In one case the council delayed in repairing a leak to a balcony roof. The council offered to make a payment of £1,000 to the complainant for the delay, which we considered to be a generous settlement, and I commend the council for offering to settle the complaint in this way. In another case the council offered to make a payment of £50 for wrongly fitting a kitchen floor which then had to be taken up and re-laid. We considered the council's offer to be reasonable in the circumstances of the complaint.

We also receive a number of complaints about housing allocations. In one case the council withdrew an offer of a property because the complainant did not attend to sign the tenancy agreement. The council did not give adequate consideration to agreeing her request to sign the tenancy agreement in the following week and withdrew the offer. It also failed to warn her that it would withdraw the offer if she failed to sign the tenancy agreement on the appointed date and failed to tell her how to make a complaint. We could not conclude that the complainant was

deprived of this offer as she could not take up the tenancy at that time due to ill health, but she was caused some distress so we recommended that the council make a compensation payment of £75 and reinstate her housing application.

We also considered some complaints about Northwards Housing the council's arms length management organisation which manages the council's housing in North Manchester. In one case, the complainant wanted to take over her father's tenancy and remain in the family home following his recent death. Northwards Housing initially refused the request as it did not consider she had the right of succession but it made this decision without establishing the facts of the tenancy and wrongly considered that there had been a previous succession. It gave her 14 days to leave the property so the complainant packed her belongings and arranged their storage. When it was established that the complainant had a right to succeed to the tenancy, Northwards Housing served a notice of seeking possession on the complainant as it considered she was under-occupying the property. It did not seek to find her alternative accommodation. In response to our enquiries Northwards Housing acknowledged that it had made a number of errors including a failure to establish the facts of the tenancy before asking her to leave and that a failure to handle the case with sufficient sensitivity, particularly as it was aware of the complainant's vulnerability. It agreed to make a compensation payment of £2,000 to the complainant to acknowledge the distress caused to her and to reimburse the costs she incurred in moving and storing her belongings.

Benefits

In one case the council gave incorrect reasons for refusing the complainants' request for payments to be made direct to them as landlords. As a result the complainants missed the opportunity to appeal as they did not consider they had grounds to do so. The council agreed to make a compensation payment of £100.

In another complaint, the council did not tell the complainant who was a young person and did not have experience of making claims, that she would need to make a new claim when she changed her address. The council suspended her claim which caused her to be in rent arrears. It also delayed in dealing with her claim and did not consider her request for benefit to be paid on two properties while she was liable for two tenancies. The council agreed to make a compensation payment of £450 for distress and determine her claims for benefit for two properties. It also agreed to review how it deals with inexperienced claimants.

Licensing

The council introduced a selective licensing scheme for private landlords and the scheme was phased in across certain areas of the city. We received a number of complaints by landlords, mainly from outside the city, who was unaware that they were affected by the scheme until they received a letter from the council informing them that they had incurred late fees. My predecessor considered it was inherently unfair that some landlords had not been given a clear opportunity to comply without incurring additional fees. In addition to misapplying the additional fees incurred, the council made modest compensation payments to the complainants for their time and trouble where this was appropriate. The council also revised its procedures to avoid the situation recurring.

Drainage

The complainant suffered from flooding outside their home. The council offered to settle the complaint by carrying out drainage works. It also carried out further works to the complainant's satisfaction when he informed our office that the original works had not remedied the problem.

Cemeteries and Crematoria

The council had been notified by the complainant of a family dispute over the burial arrangements for their parent. It failed to check its records when it received a grave owner's authority from one of the family to remove the headstone for inscription. Had it done so the council would have been aware of the dispute and not agreed to the removal. In the end the headstone was not altered but the complainant was caused some distress. The council also delayed in providing advice requested by the complainant and in dealing with her complaint. The council agreed to make a compensation payment of £250 and provide the advice the complainant was seeking.

Education

We received a number of complaints about the consideration of appeals for places in the complainants' preferred schools by school admission appeal panels. In two cases we found faults in the way the appeals were considered which were sufficiently serious for us to consider the outcome to be flawed. The council agreed to offer fresh appeals in order to settle the complaints.

In one case the council did not make adequate arrangements to ensure that the complainant's child received appropriate educational support while he was unable to attend school because of health problems. It also failed to adopt a co-ordinated approach in addressing the child's difficulties in attending school and providing sufficient educational provision. The council agreed to make a compensation payment of £5,000 to support the child's future learning and £250 to the complainant to acknowledge her time and trouble. It also agreed to review its procedures for dealing with persistent absence.

As my predecessor noted in last year's review, the council is always willing to settle complaints at an early stage when it recognises that it is at fault and I very much welcome this positive approach.

Liaison with the Local Government Ombudsman

We made formal enquiries on 65 complaints this year. The council's average response time was 27.7 days which is within the 28 day target I set for councils. This is an improvement on the previous year's performance and I commend the council on its efforts in improving its performance particularly as there has been an increase in the number of enquiries made.

I am pleased to note that the council again invited my Acting Assistant Ombudsman to meet with senior officers to discuss last year's annual review. I also welcome the council's commitment to maintaining a positive relationship with this office in order to resolve complaints and review its procedures. I note in particular the useful discussions the council had with my office on the issue of selective licensing which brought about a satisfactory resolution of these complaints.

Training in complaint handling

I am pleased that during 2009/10 we provided training in Effective Complaint Handling to staff in your authority and that your staff also attended our open course.

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	21	7	11	2	1	5	51
Advice given	0	2	3	6	1	7	0	1	9	29
Forwarded to investigative team (resubmitted prematures)	0	0	0	7	1	1	1	2	4	16
Forwarded to investigative team (new)	13	5	9	14	5	3	2	3	24	78
Total	15	9	12	48	14	22	5	7	42	174

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	30	0	0	27	26	17	101

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	65	27.7
2008 / 2009	50	33.1
2007 / 2008	63	28.7

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