

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

**Sandwell Metropolitan 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 Sandwell Metropolitan Borough Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Sandwell Metropolitan 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 122 enquiries and complaints about your council, 32 fewer than the previous year. There were 53 cases about housing matters, nine about adult care services, six about children and family services, seven about education, four about benefits, eight about public finance, five about planning and building control, six about transport and highways and the remaining 25 covered other council service areas.

Of the total, 51 cases were treated as premature and referred back to your council, and in 16 cases we gave callers advice, either about making a complaint direct to the council or about other sources of help. The remaining 55 cases were transferred to the investigative team and included 15 cases which had previously been referred to your council as premature.

Complaint outcomes

We decided 53 complaints against your council in 2009/10, over one third fewer than the previous year. In 23 cases there appeared to be no evidence of maladministration and eight cases were not investigated because they were about matters outside jurisdiction. In a further 11 cases discretion was used not to investigate the complaint. Typically these are cases where the complainant does not appear to have suffered significant injustice, whether or not there may have been fault by the council. Ten complaints were settled locally and we issued one formal report.

Reports

When we complete an investigation, we generally issue a report. This year we issued one report against your council. It concerned the assessment of housing priority on medical and welfare grounds in a case affecting the mental health of the complainant's husband. Investigation revealed that the council had not followed its own procedures correctly, and had not involved or consulted anyone with medical expertise in carrying out its assessment, contrary to a recommendation already made by the Audit Commission. Although during the investigation the complainant accepted an offer of alternative accommodation, she and her husband may have been re-housed sooner had the council acted correctly and they were caused some avoidable distress as well as the time and trouble in pursuing their complaint. Your council agreed to make them a payment of £500 to recognise this and I am pleased to note that it has changed its procedures following a review.

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, there were 10 local settlements, involving payments totalling £3,825.

There were five housing repair cases which were settled in this way, with payments totalling £900 and other action taken to rectify the faults identified in carrying out works, either of repair or of improvement under the Decent Homes initiative. These complaints involved a range of issues including failing to notify tenants about appointments, missing appointments, poor quality work, poor working practices leading to damage to tenants' belongings and a lack of liaison between different parts of Sandwell Homes and the council, particularly in dealing with a complaint once it is received. I am pleased that the council and Sandwell Homes were very willing to recognise the distress and inconvenience caused to these complainants by agreeing to take action when my office became involved.

In another housing case there was evidence of delay in offering alternative accommodation after flood damage caused by storms and your council had failed to implement a remedy it had offered prior to the complainant approaching my office. The council agreed to take the promised action and pay the complainants the sum of £250 in recognition of the additional distress and inconvenience they were caused at a difficult time.

A planning enforcement complaint revealed evidence of confusion in advice and information provided about a neighbour's house extension, so your council agreed to pay the complainant £1,000 in recognition of the impact of this and to review the guidance it issues about residential extensions.

In another case the council changed a decision on support for a mature student after it had notified her and paid money to the university. The complainant had relied on that decision and the later withdrawal of funding caused her considerable distress because of the plans she had made. Your council was able to arrange another source of funding which covered 100% of the fees involved rather than just the 75% it had originally agreed. The additional payment of £375 therefore represented adequate recognition of the injustice the complainant had been caused.

In an adult social care complaint the council's own investigation revealed a number of shortcomings in procedure for transition between children and adult services for a young person with substantial physical disabilities. While there was no failure in the continuity of service provision, the person was placed at risk by what happened, causing the young person and the mother significant distress and anxiety about the uncertainty. Your council agreed to take the steps recommended in its own investigation and make a payment of £1,250 in recognition of the injustice caused to the complainants.

Liaison with the Local Government Ombudsman

We made initial enquiries on 41 complaints during the year, slightly fewer than the previous year. Your average response time improved from just under 29 days to just under 24 days, which is now within the target time of 28 days requested. Responses on adult care services complaints took longer, just over 38 days on average, but we recognise that this type of complaint can sometimes be more complex. You may wish to consider whether there are steps your council can take to improve further in this area, but in general the results you have achieved are welcome.

Two of my officers held a presentation and workshop with your officers in October 2009, which was also attended by officers from your partner organisations, to improve understanding of our work and expectations and provide guidance on complaint resolution. I understand it was well received and it appears to have contributed to more effective settlements of complaints. I thank you for your council's part in arranging that event.

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.

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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	3	0	21	2	4	4	1	16	52
Advice given	1	2	1	6	1	2	0	2	1	16
Forwarded to investigative team (resubmitted prematures)	3	1	0	5	1	1	1	1	2	15
Forwarded to investigative team (new)	4	0	6	21	0	1	0	2	6	40
Total	9	6	7	53	4	8	5	6	25	123

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	10	0	0	23	11	8	53

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	41	23.5
2008 / 2009	49	28.6
2007 / 2008	60	28.2

Average local authority resp times 01/04/2009 to 31/03/2010

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