

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

The London Borough of Tower Hamlets

**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.

Contents of Annual Review

Section 1: Complaints about the London Borough of Tower Hamlets 2009/10	4
Introduction.....	4
Enquiries and complaints received.....	4
Complaint outcomes.....	4
Liaison with the Local Government Ombudsman.....	7
Training in complaint handling.....	7
Conclusions.....	8
Section 2: LGO developments	9
Introduction.....	9
New schools complaints service launched.....	9
Adult social care: new powers from October.....	9
Council first.....	9
Training in complaint handling.....	10
Statements of reasons.....	10
Delivering public value.....	10
Appendix 1: Notes to assist interpretation of the statistics 2009/10	11
Appendix 2: Local authority report 2009/10	

Section 1: Complaints about the London Borough of Tower Hamlets 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about the London Borough of Tower Hamlets. 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

Our Advice Team received 149 enquiries and complaints about your Council in 2009/10. The Advice Team forwarded 104 of these to the investigative team.

There were 26 complaints passed back to the Council for investigation as the complainants had not exhausted all the stages in the Council's complaints procedure, and it seemed that they would not be disadvantaged by doing so. They were told they could resubmit their complaint to the Ombudsman if they were dissatisfied with the outcome of their complaint after it had been considered by the Council.

As in previous years, housing made up the largest single category and accounted for about one third of the total contacts with the Advice Team. There were 36 housing complaints forwarded to the investigative team. Transport and highways was the next largest category and accounted for almost a quarter all the enquiries and complaints received by the Advice Team. Education, public finance and children and family services accounted for a further 27 enquiries and complaints.

Complaint outcomes

I made decisions on 98 complaints against your Council during 2009/10. There were 23 cases that were outside my jurisdiction. In 40 cases I found no fault and in 16 exercised my discretion not to pursue the complaint, often because the injustice suffered was not sufficient to justify an investigation. I issued one report against your Council and agreed 18 local settlements.

Reports

When we complete an investigation, we generally issue a report. This year I issued one report where I found the complainants had suffered injustice due to maladministration. The report was about the Council's handling of a planning application. The Council did not advertise a planning application it had received for the construction of a balcony at a property next to the complainants' home, and thus denied them the opportunity to object to the works. The Council did not consider the application properly and granted consent for it even though it contravened its adopted policy. I concluded that the complainants suffered injustice through loss of amenity by overlooking and in the loss of value to their home. They were also put to time and trouble in making their complaint to the Council and to me.

I recommended that the Council should remedy the injustice by paying £1,000 compensation to recognise the disappointment the complainants felt because the Council had not properly considered the effect of the development on their amenity and to assist the complainants to take any measures they felt would mitigate their loss of amenity. I also recommended a £300 payment to recognise their time and trouble and a “before and after” valuation of their property.

The Council is still considering its response to my report.

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 75 complaints we decided against your authority which were in jurisdiction, 18 (24%) were local settlements.

The Council paid £5,650 compensation to settle 14 complaints. In the remaining four complaints classified as local settlements, the Council took action to resolve the complaint, or to review its procedures and working practices, and it was not necessary to recommend compensation.

The largest compensation payment was £2,000 to settle a complaint about neighbour nuisance and anti-social behaviour. I say more about this complaint in the section headed anti-social behaviour below. A total of £2,050 compensation was paid to settle eight housing complaints.

Housing repairs

We settled five complaints about housing repairs in 2009/10. There was a common theme in four of these cases. In each case there was an unreasonable delay by the Council in investigating recurring episodes of water penetration into the complainants’ homes caused by a leaking roof or a leak from the property above. In one case, the complainant suffered from a serious illness and he had to give up the use of his bedroom and sleep on the living room floor instead. In another case, the Council agreed to award urgent priority for a transfer because of its delay in getting to grips with the problem.

I accept that it can often be difficult to identify the source of water penetration to properties, and it may take time to eliminate the most likely causes. But in all these cases there was an unacceptable delay in rectifying the problem which caused real inconvenience and misery for the complainants who lived in unsatisfactory housing conditions for longer than necessary.

Anti-social behaviour

We settled three complaints about anti-social behaviour and neighbour nuisance in 2009/10. The following faults were found in the Council’s investigation of these cases:

- a failure to respond to a petition organised by residents complaining about anti-social behaviour by youths who were drinking and taking drugs in the stairwell of a block of flats;
- unreasonable delay in investigating complaints;
- a failure to interview neighbours during an investigation of a noise nuisance complaint

In one case, the Council agreed to pay the complainant £2,000 because there was an unreasonable delay of nine to 10 months during a two year investigation of a noise nuisance complaint which adversely affected several residents in a block of flats, as well as a failure to follow

its own policy and to consider the possibility of mediation at an early stage to try to resolve matters.

Homelessness

We settled one complaint made by a single homeless man who had approached the Council for assistance with housing. The Council's Housing Options & Support Team effectively told him he was not in one of the priority need groups and so it did not take a homelessness application or issue him with a written decision which he could then challenge by using the statutory review procedure.

The Council agreed to take a homelessness application, consider the complainant's circumstances afresh and then issue a decision. The decision letter would explain his right to request a review of the decision if it was adverse. The Council also paid £50 compensation to recognise the time and trouble in making the complaint.

The Council undertook to review its leaflets and the information on its website to make it clear that applicants have a right to request a formal decision letter. The Council also offered to send me a copy of the revised literature and I would be interested to see this information.

Housing Benefit

We settled one Housing Benefit complaint in 2009/10. The complainant was a former tenant of a Housing Association. The Housing Association commenced possession proceedings on grounds of rent arrears and obtained a date for an eviction hearing. There was unreasonable delay by the Council in determining the complainant's claim for housing benefit, even though it knew he was threatened with imminent eviction. The Court granted an order and the complainant was evicted before the housing benefit claim was determined and paid. However, when the lump sum payment of housing benefit was made, it did not clear all the rent arrears and the complainant still owed a substantial sum to his former landlord. So there was some uncertainty about whether the Court would have refused to make the order and the eviction would have been prevented if benefit had been awarded in good time. We recommended the Council should award £500 compensation to recognise the loss of opportunity for the complainant to present his case to the Court in a more favourable light with a lower level of outstanding arrears. The Council agreed to settle on this basis.

Parking

Many parking complaints are outside my jurisdiction because there is a right of appeal to a Parking Adjudicator or a Magistrate depending on the nature of the enforcement action being taken.

However we continue to receive complaints about the issuing of residents' parking permits and also about the removal or clamping of cars parked on housing estates. These complaints are within our jurisdiction and we settled three such complaints in 2009/10.

Two complaints were about the clamping or removal by Council contractors of vehicles parked on housing estates. In both cases, the Council agreed to refund the removal charges or release fees.

In the third settlement, the Council did not deal promptly with a resident's request for visitor's parking vouchers and, as a result, his carer was unable to park near his home. The Council readily agreed to issue him with 24 books of vouchers to remedy the complaint.

School admission appeals

Not all complaints are remedied by a payment of compensation. In one complaint we investigated there was some confusion about whether an Independent Appeal Panel had taken into account medical evidence when it considered an appeal for admission of a child to a primary school. The decision letter setting out the grounds on which the Panel could uphold an infant class appeal were incomplete. Although the Council did not accept the Panel's decision was flawed, it accepted the decision letter was defective and so it agreed to offer the parents a fresh appeal hearing. This was a satisfactory remedy and the parents were happy with this outcome.

Managing tenancies

The two complaints we settled identified a need for the Council to make changes to its systems and procedures. In one case the Council did not have a system to check the validity of service charges or a means of checking that work it had charged for had been done. The Council agreed to introduce new systems to improve the quality of information and it also refunded the charges paid by the complainant because it could not demonstrate how the charges had been calculated and whether they were reasonable for the work done.

In the other complaint, the Council failed to follow its procedure which provided for housing officers to visit tenants who were terminating their tenancy to explain the policy on recharging tenants if they did not remove their fixtures and fittings, and clear all their personal belongings, before they moved out of a property. The Council wrote off the amount it had recharged the tenant and it also agreed to review its procedures.

Liaison with the Local Government Ombudsman

My investigators made initial enquiries on 56 complaints this year. Your average time for responding was 19.6 days which is well within my requested timescale of 28 days. You have maintained your good response times despite a slight increase in the number of enquiries we made in 2009/10.

My investigators made many positive comments throughout the year about the Council's prompt responses to proposals for settlements, as well as the clear and helpful responses to their enquiries. On one occasion the Council gave an investigator wrong information about ownership of a housing estate but it addressed this error by drawing up a list of estates which it owns and manages, and those where it acts as a contractor to Housing Associations.

Your Corporate Complaints Manager attended one of our regular seminars for Council officers who deal with our enquiries and investigations. She also attended a seminar for officers involved in handling adult social care complaints under the new statutory procedure.

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

Your Council continues to provide my investigators with timely and thorough responses to their enquiries on complaints. Officers in your Complaints team are ready to consider proposals for local settlements, and are pro-active in putting forward proposals in cases where they identify some administrative fault. This approach to complaint-handling is to be commended, and my investigators find your staff approachable and willing to engage in dialogue to try to resolve complaints where possible.

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	5	0	10	0	3	1	2	4	26
Advice given	0	0	0	3	1	2	1	8	4	19
Forwarded to investigative team (resubmitted prematures)	1	1	0	5	0	0	1	0	2	10
Forwarded to investigative team (new)	4	2	10	30	0	4	4	24	16	94
Total	6	8	10	48	1	9	7	34	26	149

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	18	0	0	40	16	23	98

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	56	19.6
2008 / 2009	50	19.3
2007 / 2008	50	16.2

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