

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

Transport for London

**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 Transport for London 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Transport for London. 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

Last year our Advice Team dealt with 194 enquiries and complaints about your authority. This is a reduction on the number received in 2008/09 which was 226.

Of these enquiries and complaints received, 56 related to complaints that were deemed to be premature and so were referred back to your Authority for investigation. We provided advice to 33 other people who contacted the Advice Team.

Our Advice Team forwarded 106 complaints to the investigative team, which was an increase on 2008/09 (93). Ten of the complaints forwarded for investigation were ones which had been referred to the Authority as premature but had subsequently been referred back to the Advice Team because the complainant was not satisfied by Transport for London's response. This was a significant improvement on last year's figure when 23 complaints were resubmitted.

Complaint outcomes

Reports

When we complete an investigation, we generally issue a report. This year we did not issue any reports against Transport for London.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, an authority 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, which were within our jurisdiction, 39% were local settlements. A total of £8,129 was paid out by your Authority, either in compensation or in cancelled fines – approximately half of what had been paid the previous year.

The proportion of cases where we agree local settlements is above average. However, that should be seen in context; the number of complaints we receive about traffic enforcement (this includes congestion charge, moving traffic offences, parking contraventions and the Low Emission Zone) is low considering the volume of transactions processed and penalties issued by Transport for London.

Over 14 million valid congestion charge payments were made during the year, and 1.4 million penalties were issued. Eighty thousand of these penalties reached the stage where a warrant was issued to bailiffs by the court to collect outstanding penalties. Transport for London processed over a quarter of a million applications to register for various discounts available under the scheme. In total we received 33 complaints about the operation of the congestion charge zone, only one of which related to the processing of a discount application. We received no complaints about the Low Emission Zone.

There were 384,000 penalties issued in respect of moving traffic offences, with over 50,000 reaching warrant stage. We received 24 complaints about the enforcement of moving traffic offences.

A complaint was made by a motorist who said he had paid the congestion charge by telephone for a four day period. Transport for London had issued penalties for these days, alleging that the charge had not been paid. The motorist did not have the opportunity to challenge the penalties as the vehicle was leased; the penalties had been issued to the leasing company and Transport for London had been paid by it. The amount of the penalties and an administration charge had been taken from the complainant's bank account by the leasing company under a direct debit mandate in accordance with the leasing agreement he had with it.

The complainant was adamant that he had given the correct vehicle registration number to Transport for London when paying the charge. At the time Transport for London recorded all telephone calls to its call centre, and my investigator requested the recording of the conversation in which the motorist paid the charge. The conversation was reviewed by your officers before it was sent to us, and it was immediately recognised that despite repeating back the correct vehicle registration number to the complainant, the operator had then allocated the payment to a different vehicle. Transport for London agreed to reimburse the complainant with all his costs and pay him an additional £100 to reflect the time and trouble he had been put to.

Two complaints were made about bailiff action and wrong advice given by bailiffs and by your Authority's call centre. Motorists complained that the first they knew of motoring penalties was when they were confronted by a bailiff at their door with a warrant to collect outstanding fines. This may have occurred because a motorist had moved home and not informed the DVLA of the change of address in a timely manner, and so the notices issued by your Authority did not reach them. There is a statutory process for dealing with this situation and it seems to me right that your Authority should inform motorists of the process. On two occasions, misleading advice was given to complainants, and so they were unaware that they could apply to a court to make a statutory declaration, 'out of time', that the original notices were not received. On both occasions, following investigation, Transport for London agreed to refund the bailiffs' charges.

Following these complaints, and a meeting with my officers, Transport for London has taken steps to reduce the possibility of similar problems arising. It has put in place a section at its call centre with special responsibility for dealing with penalties which have reached bailiff stage. It has amended its procedures so that bailiffs may now give information to motorists about the statutory declaration process, and it has added an extra step during the enforcement process – now, immediately prior to registering the debt at the county court, your Authority checks with the DVLA that it has not been notified of any changes to the vehicle ownership details. I commend the Authority for these changes in its procedures.

A complaint was received from a motorist who had notified the DVLA immediately he had sold his vehicle. It can take up to three weeks for this information to be entered on the DVLA database, and within that period two penalties were issued to him in respect of the vehicle. The motorist made representations against the issue of the penalties and these were accepted by Transport for London. However, in error, the Authority only cancelled one of the penalties. Enforcement

continued on the other penalty and the motorist was forced to pay the outstanding penalty and bailiff charges. Transport for London accepted that it should have cancelled both penalties when it received the motorist's representations and agreed to refund the payment which had been made to the bailiff.

We considered a complaint from an elderly motorist who had, within one month, accumulated £2,070 in congestion charge penalties. The complainant had moved to London from the north of England and was occupying council owned sheltered accommodation. The warden of the flats had arranged a permit for on-street parking. The motorist was not aware, and the warden did not tell him, that in addition to the parking permit, he needed to purchase a daily charge if his vehicle was left on the street within the charging zone. Penalties were issued, but there was a delay in the motorist receiving them as his car was still registered at his old address.

My investigator took the view that the penalties had been properly issued and enforced but there was an opportunity, in the circumstances, for your Authority to exercise its discretion to mitigate the penalties. Transport for London accepted that there had been no attempt on the part of the motorist to avoid paying the charge, and that the penalties had arisen because of a genuine misunderstanding of the regulations. Your Authority agreed to cancel all the penalties which had been issued. It seems to me that this was a sympathetic, customer focused, settlement of this complaint.

Other decisions

In 37 complaints (exactly one third of the decisions made) we found no fault. About a third of the complaints which were passed on to investigative staff by the Advice Team were out of jurisdiction. This was because a considerable proportion of the complaints received by the Team were about the issue of Penalty Charges where aggrieved motorists had a statutory right of appeal to an Adjudicator. Complainants were often told of this when they made enquiries of the Advice Team but nonetheless requested that their complaints were passed on for investigation. On receipt, my investigators continued to consider if they should exercise the discretion open to them to investigate complaints where a complainant had not used their statutory right of appeal and where it did not seem appropriate that they should be expected to do so. During the year, my investigators exercised discretion to investigate these types of complaint on 23 occasions and achieved settlements on behalf of the complainants.

Liaison with the Local Government Ombudsman

The average time for your Authority to reply to our written enquiries during the year was 31.3 days which is an improvement on the average response time last year of 39.1 days. This is close to our target period of 28 days which 52% of London Boroughs manage to attain. We have seen a substantial improvement in the response times about complaints regarding traffic enforcement since they have come under the same directorate as congestion charging. However, some enquiries, particularly those which relate to highways and bus operations, took in excess of three months to answer. My investigative staff have met your officers during the year to explore the reasons for these delays and to put a process in place where enquiries can be escalated to a senior level if there is a delayed response. There has been an improvement in response times since this change.

My officers have continued to liaise with yours in an effort to achieve service improvements and several meetings have been held to this effect. We have discussed with you your proposals to review and improve guidance to bailiffs when enforcing motoring penalties and how more information could be made available on your website.

I was pleased to note that when you became aware that problems had arisen following the appointment of a new service provider for processing congestion charge payments and penalties that you met with my staff to discuss your proposals for dealing with any increased level of complaints. We were disappointed to hear that the facility to record all telephone contacts had been lost following the appointment of the new service provider, but I welcome the news that this has now been restored.

My officers have also discussed with you problems which may arise following the introduction of the Mayor's bike hire scheme at the end of July 2010, and what impact the scheme may have on our workload.

In addition to the various meetings referred to, one of your officers attended a link officer seminar we held in April, which I hope was useful.

Training in complaint handling

I would like to take this opportunity to remind your Authority 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 am pleased that during 2009/10 we provided training in Effective Complaint Handling to staff from your Authority. I note that after the issue of three reports against your Authority last year criticising your complaints handling process, you arranged for an investigator to run a training day for a contractor whose staff deal with the processing of penalty charge notices on your behalf.

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	Transport and highways	Other	Total
Formal/informal premature complaints	54	1	55
Advice given	31	2	33
Forwarded to investigative team (resubmitted prematures)	9	1	10
Forwarded to investigative team (new)	86	10	96
Total	180	14	194

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	30	0	0	37	10	34	111

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	33	31.3
2008 / 2009	46	39.1
2007 / 2008	70	30.3

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