

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

**Walsall Metropolitan Borough  
Council**

**for the year ended  
31 March 2010**

Local Government Ombudsmen (LGOs) provide 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 Walsall Metropolitan Borough Council 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about Walsall 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 61 enquiries and contacts relating to the council. A total of 12 of these were about adult care services and six about children and family services. Seven concerned education, seven were about public finance and local taxation, and a further seven covered planning and building control. Five were about transport and highways, four concerned housing and two were about benefits. The 11 others included antisocial behaviour and land.

A total of 34 were passed to the investigative team (25 new complaints and nine resubmitted premature complaints). We treated 19 complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In a further eight cases we gave the complainant advice.

This is the same number of complaints and enquiries as we received in 2008/9, of which 31 were forwarded to the investigative team. We expect to see slight fluctuations of this kind over time.

## Complaint outcomes

We decided 38 complaints against the council during the year. In 18 cases we found no evidence of maladministration, and six complaints were outside jurisdiction. In a further two cases we exercised discretion not to investigate further. One concerned a building control matter and the other education. The former was withdrawn and in the latter case the complainant was content that the complaint was progressing through the council's complaints procedure following his complaint about delay to us.

## Reports

When we complete an investigation, we generally issue a report. This year we issued no reports against your council.

## 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 12 were local

settlements, representing 37.5% of complaints decided. We recommended that the council should pay a total of £4,475 in compensation in 2009/10. In this letter I shall deal with some of the more noteworthy examples.

### **Planning and building control**

Four local residents complained about inadequacies in the planning officer's report to committee on an application for development, part of which was on a greenfield site. These included failure to conduct a survey before the decision was made which considered ecological aspects, as required by government guidance. For outrage (the uncertainty of not knowing whether, if the scheme had been deferred to allow a survey to be carried out, they would have been in a different position, and the time and trouble in pursuing their complaints) the council agreed to remedy this injustice by payment of £750 to each complainant.

Another planning complaint was settled by the council agreeing to pay £1,000 to the complainant for outrage and time and trouble in pursuing the complaint which resulted from a flawed committee report.

### **Local taxation**

The council had unreasonably delayed in responding to the complainants request for a statement of account for council tax payments and then delayed in making a repayment by three months. During this time the council wrongly issued a summons for payment. Having agreed compensation to the complainant for these errors, the council then delayed further in making the compensation payment which prompted the complainant to raise the matter with us. Following our investigation the council made an enhanced compensation payment of £175 for the distress caused.

### **Adult care services**

The complainant was disabled and confined to living and sleeping in a downstairs room in the home which he shared with his family. The council refused to carry out work under a disabled facilities grant because the cost was double the maximum grant available. No suitably adapted property was immediately available in the locality, and the complainant was reluctant to move further away because of strong family associations with that area. Following our investigation which further demonstrated the necessity for the work, the council agreed to carry it out.

### **Enforcement**

The council failed to keep the complainant up to date about its action to investigate her complaints about enclosure of part of the highway and smells from a neighbouring property. The complainant was put to time and trouble in pursuing her complaint and was caused outrage at the council not dealing with the issues effectively. The council agreed to pay £250 compensation.

### **Other complaints subject to settlement**

The council agreed to repeat to its collecting team its instructions about the return of waste bins to householders' properties and to make further spot checks to see that this was being done. We considered that this was a reasonable settlement of the complaint that bins were not always returned to the correct position.

The council's environmental health officers investigated whether an illuminated advertisement was causing a statutory nuisance to the complainant in his nearby home. We could not criticise the professional judgement that it was not a statutory nuisance, but the carrying out of the investigation by officers was a sufficient resolution of the complaint.

## **Liaison with the Local Government Ombudsman**

We made formal enquiries on 23 complaints this year. In the annual review for 2009, my predecessor noted that the council had made a marked improvement in its response times, although the time achieved remained outside our 28 day target. In 2009/10 the council took an average of 30.1 days to reply to our enquiries, which is a further improvement on the time in 2008/09, and yet closer to the 28 day target we set for councils. I am pleased that the council has in recent years placed much greater emphasis on replying to my enquiries in a timely way and hope that it will maintain its efforts and be within the 28 days in 2010/11.

## **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 am pleased to note my officers' comments on the council's prompt response to our proposals for local settlements and the general willingness of the council to resolve complaints in this way.

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.

**Dr Jane Martin  
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CV4 8JB**

**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/](http://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](http://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.

**Dr Jane Martin**  
**Local Government Ombudsman**  
**The Oaks No 2**  
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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**

<b>Enquiries and complaints received</b>	<b>Adult care services</b>	<b>Children and family services</b>	<b>Education</b>	<b>Housing</b>	<b>Benefits</b>	<b>Public Finance inc. Local Taxation</b>	<b>Planning and building control</b>	<b>Transport and highways</b>	<b>Other</b>	<b>Total</b>
Formal/informal premature complaints	1	2	0	2	2	4	2	2	4	19
Advice given	2	2	2	0	0	0	2	0	1	9
Forwarded to investigative team (resubmitted prematures)	1	1	0	0	0	1	0	2	4	9
Forwarded to investigative team (new)	8	1	5	2	0	2	3	1	3	25
<b>Total</b>	<b>12</b>	<b>6</b>	<b>7</b>	<b>4</b>	<b>2</b>	<b>7</b>	<b>7</b>	<b>5</b>	<b>12</b>	<b>62</b>

**Investigative Team**

<b>Decisions</b>	<b>MI reps</b>	<b>LS</b>	<b>M reps</b>	<b>NM reps</b>	<b>No mal</b>	<b>Omb disc</b>	<b>Outside jurisdiction</b>	<b>Total</b>
<b>2009 / 2010</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>18</b>	<b>2</b>	<b>6</b>	<b>38</b>

**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	23	30.1
2008 / 2009	24	34.9
2007 / 2008	26	45.3

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