

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

Introduction

This annual review provides a summary of the complaints we have dealt with about Westminster 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

Our advice team received 174 enquiries and complaints about your Council (down from 229 in 2008/09). The majority concerned housing (64) and transport and highways (46).

Of the 41 complaints about housing which were passed to the investigation team, 10 were about housing allocations, nine were about disrepair, nine were about homelessness and the remainder concerned housing sales/leaseholds and tenancy management. The transport and highways cases passed to the investigation team were mostly about parking. Other complaints passed for investigation included housing benefit (10), anti-social behaviour (four), adult care services (three), planning applications (two) and education (two).

In all, 97 complaints were passed to the investigation team. The other complaints and enquiries were either sent to the Council to be dealt with under its complaints procedure, or were the subject of advice.

Complaint outcomes

We decided 84 complaints about the Council. A quarter of them were outside my jurisdiction, including those parking complaints where the complainant had the right to appeal to the Parking Adjudicator; and those cases where homeless applicants had appeal rights in relation to the Council's decisions.

Also in a quarter of cases, we used our discretion to not investigate. This is commonly because the complainant has not been caused significant injustice as a result of the alleged fault. In a further 19 cases, we found no or insufficient evidence of fault.

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, some 36.5% of those which were within our jurisdiction were local settlements. Several of those settlements were made on complaints which had been resubmitted to us after the Council had been given an opportunity to deal with them through its complaints procedure.

Complaints by service area

Housing

Housing allocations

I decided seven complaints about the Council's housing allocation system. There was one local settlement. The Council not only failed to properly process a housing application but also failed to acknowledge or respond to the subsequent complaint. My investigator could not conclude that the complainant had missed out on any opportunities for rehousing, but the Council apologised and paid compensation of £150 for the complainant's time and trouble in pursuing the complaint.

Homelessness

In one complaint the Council's decision letter did not mention the appeal rights available to the applicant. In this case there was no significant injustice to the complainant but the Council agreed to add a standard paragraph to its decision letters. In another complaint the Council failed to invite the complainant, who claimed to be a victim of domestic violence, to make an application as a homeless person. While I could not be sure what would have been the outcome if the Council had acted properly, there was a degree of uncertainty for which the Council agreed to pay compensation of £250.

Disrepair

I decided six complaints about council house repairs and obtained local settlements in two of them. In one case the Council agreed to pay compensation of £100 for a delay in fixing the complainant's water heater. In a more serious case, the Council delayed for 14 months in dealing with damp proofing work and repairing a heater. The complainant, a young care leaver, had to live for longer than was necessary in a damp flat without heating. The Council had already arranged for repair works to start and had offered compensation of £100. However, it agreed to my suggestion that it should pay the complainant further compensation of £1,160.

Leaseholders

I will not normally deal with complaints from leaseholders about outstanding repairs because it is usually my view that it is reasonable to expect a leaseholder to seek a remedy in a court of law where the Council is alleged to be in breach of its repairing covenants. However, I did become involved in two unusual cases. In the first, a leaseholder complained about poorly fitted windows which the Council repeatedly failed to put right. The Council agreed to arrange for a further replacement, to pay the fees of the complainant's adviser (£16,000) and to pay the complainant compensation of £500.

In the second case, City West Homes, the Council's ALMO, had agreed to carry out regular biannual inspections of the complainant's guttering following recurrent flooding due to blockages caused by leaves. But it did not keep to its word and a further flood occurred. The Council agreed to my proposal that it should pay compensation of £250 for the complainant's time and trouble in pursuing the complaint, having already submitted the complainant's claim for damages to its insurers.

Tenancy management

I found that there were weaknesses in the procedures used by the Council to deal with vexatious complainants. In particular, there was no provision for representations to be made against a decision to treat someone as vexatious. The Council agreed to review its approach.

Parking

Many of the complaints I received this year about parking were outside my jurisdiction. But in six cases I obtained local settlements.

In one case a parent complained on behalf of her daughter who had received 23 different penalty charge notices at a time when she had been very unwell. The parent had complained to the Council and it had agreed to place a hold on any further action. But in each case, after a period of six months the recovery action was restarted without further consideration of the circumstances. The complainant paid the bailiffs as her daughter continued to receive letters about the outstanding penalty charge notices. The Council agreed to reimburse all of these payments and to pay compensation – a settlement worth in excess of £2,500.

In one case, following a judgement by the Traffic Enforcement Centre, the Council failed to stop enforcement action by its bailiffs and, although it had already awarded compensation, it accepted my suggestion that a further payment of £350 should be made to reflect the injustice caused by its delay. In another case the Council failed to follow its procedures regarding the filing of late statutory declarations. It also delayed in refunding bailiff fees which the complainant had paid and which should have been refunded when the penalty charge notice fees were reimbursed to the complainant. A failure to refund bailiffs' fees featured in a further complaint, for which the Council paid compensation and reviewed its procedures. The other complaints revealed a failure to reply to correspondence and the loss of an email.

Housing benefit

A landlord's agent complained that the Council had failed to act on requests made that future payments of housing benefit should be paid direct to the landlord. Payments continued to be made, in error, to the tenant, who then vacated the property leaving substantial rent arrears. The landlord retained the tenant's deposit, but was still out of pocket. The Council agreed to my proposal that it should pay the complainant the shortfall of over £4,000.

In another case the Council had delayed in processing the complainant's applications for housing benefit. It had already offered compensation but agreed to increase this to over £500.

Local taxation

There were two local settlements. In one, the Council obtained a summons and instructed a bailiff to take recovery action against a vulnerable complainant. Although the Council was unaware of the vulnerability, it accepted that its bailiffs should have returned the case when the complainant told them about her mental health problems. It apologised to the complainant, waived any costs arising from the recovery (including the bailiff's charges) and cancelled any further recovery by the bailiffs (it arranged for deductions to be made from the complainant's benefit instead). In addition, the Council agreed to review the wording of the letters used by the bailiffs.

In another case involving bailiffs, the Council paid compensation of £200 for wrongly recovering a debt which the complainant had already paid.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was slightly over 28 days, which is broadly in line with our target timescale.

I was pleased that the Council sent a representative to the seminar we held in July about the new adult social care complaints procedures. And in September an Assistant Ombudsman met with the

Council's Corporate Complaints Manager to discuss our working arrangements and to exchange information about developments in our respective services.

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	2	1	0	14	8	2	1	13	8	49
Advice given	1	0	2	9	2	1	0	10	5	30
Forwarded to investigative team (resubmitted prematures)	1	1	0	8	3	0	0	5	1	19
Forwarded to investigative team (new)	2	1	2	33	6	3	2	18	11	78
Total	6	3	4	64	19	6	3	46	25	176

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	23	0	0	19	21	21	84

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	49	28.6
2008 / 2009	68	28.1
2007 / 2008	85	30.0

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