

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

Wolverhampton 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 Wolverhampton City Council 2009/10

Introduction

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

In 2009/10 we received 85 enquiries and complaints relating to the council, which is very similar to last year's total of 84. These were spread across various service areas of the council but as in previous years, the highest number of enquiries and complaints (28) were about housing matters. This is not surprising given the urban character of the City and given that the council still owns a large housing stock, managed by an arms length management organisation.

Of the overall number of enquiries and complaints, 21 were treated as premature and referred back to the council for consideration under its complaint process, while 51 were referred to the investigative team for a decision (including 12 which had previously been referred to the council as premature). In the remaining 13 cases we gave advice short of a decision.

Complaint outcomes

This year we decided 43 complaints against the council. In seven cases we decided that the matter complained about was not within jurisdiction. In 23 cases we discontinued the investigation, because there was no or insufficient evidence of maladministration or because we exercised discretion not to investigate; for example because we did not consider the complainant had suffered any injustice as a result of the council's actions.

Reports

This year we issued no reports against the council. So the remaining 10 cases were decided as 'local settlements'.

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. So the percentage of complaints we decided as local settlements against your authority [27.7%] is in line with the national average. Overall, we recommended that the council should pay a total of £1,440 in compensation in 2009/10.

Housing

Three settlements were concerned with housing matters. In only one case did we ask the council to pay compensation directly to the complainant, a tenant who had waited too long for essential safety checks and repairs to be carried out after a flooding incident in their flat. The council agreed to compensation of £200 here for distress and time and trouble.

The second case was concerned with the actions of council contractors who caused damage to the complainant's phone line and possessions while carrying out improvements to his home. The council arranged for this matter to be referred to the contractors' insurance company who then reached a satisfactory settlement with the complainant.

The third case is one where I would single out the council for delivering exceptional service to one of its tenants in the light of a complaint. We received a complaint that noise insulation between two flats was extremely poor; a common failing in many properties built in the post-war era. The council agreed to a suggestion that it might commission a survey to ascertain what work was needed to bring the noise insulation between the flats up to current standards. The survey recommended works costing several thousand pounds. It is to the council's credit that it agreed to carry out the recommended work; which represented a highly satisfactory outcome.

Anti-Social Behaviour

The greatest number of complaints that resulted in settlement this year (four in total) was concerned with the council's response to reports of antisocial behaviour.

In two cases there were significant failings in the council's management of investigations into long-running complaints of nuisance behaviour on the part of neighbours. In the first of these cases the occupiers of a privately-rented flat were said to be causing repeated and excessive noise nuisance. Our investigation found the council had failed to liaise sufficiently with the landlord who owned the privately rented flat or with other tenants in the block, who might have assisted with the investigation and resolution of the complaints about noise. The council had also failed to keep to promised timescales and standards of communications, and in particular, it also failed to properly assess the complainant's request for a transfer when they provided evidence the alleged nuisance was taking a toll on their mental health. We were particularly concerned that the council was not assessing transfer requests on mental health grounds on a case-by-case basis, instead using a system whereby applicants with certain mental health conditions automatically received a certain priority based on their diagnosis and not linked directly to their housing need. The council agreed to make procedural improvement and pay the complainant compensation of £350 for distress.

In the other case the council failed to adequately log or respond to reports of alleged nuisance behaviour by one of its tenants for several months. Its housing officers also failed to liaise adequately with environmental health officers, who had received separate complaints of noise nuisance, and the police, who were investigating allegations of criminal damage against the tenant. While we could not say that but for these failings the council would have been in a position to take a more robust line with its tenant, clearly some opportunities were missed to investigate the complaints more thoroughly thereby causing uncertainty for their neighbour, the complainant. The council recognised it had fallen short of basic administrative standards and agreed compensation of £350.

The remaining two cases involved less significant failings and were resolved by the council taking further action to investigate the alleged nuisance at the centre of the complaints.

Education

The other three cases that were settled this year were concerned with education matters. In one case the council sought to resolve a dispute about the withdrawal of a concessionary school bus pass by convening a fresh appeal for the complainant to put their case as to why the pass should not have been withdrawn.

In another case the council compensated a complainant for the value of a school uniform (estimated at £50) which had been purchased when they were wrongly told their child could be admitted to a school outside the normal admission and waiting list criteria.

The third case highlighted more significant failings when the council incorrectly assessed a complainant's eligibility for student finance, resulting in the student being overpaid approximately £1,680. Neither the student nor their parents were to blame for the incorrect assessment, having provided the council with the necessary information to calculate the assessment correctly; although we thought they might have done more to protect their position by querying the award as it included a grant not paid in the previous years. The council was obligated to refer the overpayment to the Student Loan Company for recovery, and agreed to compensate the student to the value of 50% of the overpayment, or £840. The case highlighted the need for robust systems to ensure such awards are calculated correctly and for a procedure to address legitimate grievances where students are overpaid through no fault of their own.

Liaison with the Local Government Ombudsman

We made enquiries on 32 complaints this year. The council's average response time was just over 30 days, which compares with a figure of 34 days last year. I request responses to our enquiries to be given in 28 days, so it is disappointing the council has not been able to meet this target. However, I recognise it is making improvements. Indeed, the target would have been reached if it was not for a few cases where the time taken to respond to enquiries was well in excess of 28 days (67 days in one instance). So in general terms encouraging progress has been made over the last twelve months which bodes well for the future.

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	1	8	1	0	1	1	5	21
Advice given	2	0	0	3	0	0	1	2	6	14
Forwarded to investigative team (resubmitted prematures)	0	1	0	5	1	0	1	0	4	12
Forwarded to investigative team (new)	1	3	12	12	0	3	0	0	8	39
Total	4	7	13	28	2	3	3	3	23	86

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	10	0	0	23	3	7	43

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	32	30.4
2008 / 2009	36	34.0
2007 / 2008	27	23.3

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