

Local Government OMBUDSMAN

24 June 2011

Ms Stella Manzie CBE
Chief Executive
London Borough of Barking and Dagenham
Civic Centre
Rainham Road North
Dagenham RM10 7BN

Dear Ms Manzie

Annual Review Letter

We are writing with our annual summary of statistics on the complaints made to us about your authority for the year ending 31 March 2011. We hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our advice team, the number that the advice team forwarded to my office and decisions made on complaints about your council. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your authority to respond to written enquiries and the average response times by type of authority.

Enquiries and complaints received

We received 166 enquiries and complaints about your council last year, almost a third more than in the year before. Over a third (57) concerned housing. Other key areas were education and children's services and benefits. Advice was given in 30 cases and 47 were considered to be premature, because the council had not yet been given a reasonable opportunity to deal with them. The remaining 89 were passed on to my investigation team to consider. These covered a broad range of subjects but education and children's services accounted for 28 of which 22 were about school admissions and 27 were about housing issues.

As you know, we consider it important to deal with complaints as swiftly as possible and council response times to our enquiries are a significant factor in achieving timely outcomes. From formal enquiries made on 52 complaints this year, your average response time was 22 days, which is within the 28 day target and a further improvement on last year's already good figure.

Complaint outcomes

We made decisions on 77 complaints; closing 11 because there were not within our jurisdiction to investigate and 36 because there was no or insufficient evidence of fault or sufficient injustice to warrant further investigation.

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. Last year, 27.1% of all complaints the ombudsmen decided and which were within our jurisdiction were local settlements. In the case of your council, 45.4% (30) resulted in local settlements. This is both higher than the national average and a notable increase on the previous year (35.9%). Some of the settlements were:

Housing

Just under half of the local settlements (13) concerned housing issues and seven of these concerned repairs. All of these involved elements of delay. Two cases concerned water penetration. In another case, the council took nearly two years to replace the complainants' kitchen and carry out rewiring, and the complainants were left with insufficient cupboard and work space and an uneven floor surface. The council had offered compensation, but agreed to increase this from £100 to £400.

We settled one homelessness case. The council was at fault on three occasions when approached by the complainant who was homeless, either because it failed to take and assess an application or because it failed to notify him properly of decisions. As a result he was denied his rights to have his homelessness assessed and to challenge decisions. There was also poor co-ordination and delay in the council's responses to the complainant's representations and complaints. While there were some mitigating circumstances, the council promptly agreed to pay the complainant compensation and review its working practices.

One housing allocations case involved a six month delay in processing an appeal against a decision that the complainant had no 'reasonable preference' for accommodation on medical grounds. Following the complaint, the council awarded 'reasonable preference' and backdated the decision date. The complainant had not missed out on offers of accommodation in the meantime, but it agreed to pay compensation for the time and trouble incurred by the complainant. It also took steps to clear the backlog of appeals.

One complaint about the management of tenancies involved a delay of more than two years before a proper response was made to reports of persistent nuisance from pigeons. There was further unreasonable delay in responding to complaints, and there was poor communication. The council promptly undertook the required works, agreed to provide an apology, compensation, and a further inspection to assess any outstanding disrepair issues.

Education & children's services

Four of 19 school admissions complaints were settled locally. One was made by the elder brother of a teenager who had been living with his grandparents in another borough, but who had left after becoming involved with gangs. The council delayed in finding him a place by asking for evidence of

legal guardianship which the complainant was not in a position to provide. It failed to involve social care for three months, or to find a school place for six months, until the after ombudsman had made enquiries. There were other failings in operating the system for fair access to schooling, and in provided wrong advice about his right of appeal. The council agreed to pay compensation to the complainant and his brother, undertook to share lessons about the fair access system with secondary head teachers, to brief admission staff on the right of appeal, and agreed to involve social care early if similar cases arise in future.

The three other settlements concerned errors applying the admissions appeals code and were addressed by the offer of fresh appeals for school places. In one case an appeal panel member expressed personal opinions contrary to the code, the case was not made that admitting the child would prejudice education, as required, and the notes and decision letter were inconsistent. In another case a pragmatic decision was taken to offer a fresh appeal, when the complainant had not been advised of her right to make a fresh application with new medical evidence. Lastly, the council failed to provide advice on 'choice advisors' to a complainant who was unclear how to approach the hearing – the council amended its guidance leaflets to reflect this right.

Highways & transport

One complaint involved a penalty charge incurred because the car park ticket machines would not allow the pre-purchase of tickets before the charging period, which was unclear from the signage. The council agreed to refund the penalty charge and to ensure the signage was not misleading. Another case involved traffic management where the council clarified that a yellow box junction was incorrectly marked and therefore unenforceable.

Environmental services, public protection & regulation

Four complaints involving antisocial behaviour or environmental health which is part of our 'other' category were settled. In one, the council paid compensation to address injustice caused by its failure to deal with sporadic antisocial behaviour and noise. In another, the council agreed to pay compensation for delay, time and trouble and expenses incurred by the complainant when it failed to take effective action for 18 months to address a problem with a neighbour leaving smelly rubbish bags in a communal area. It also introduced fines of £25 per bag to try to resolve the problem. Another complaint, involved waste bins at a café. The council failed to monitor properly or empty café bins, or to follow up on its own action plan after a complaint. Following the complaint to us, the council took much too long to respond to our enquiries as several departments failed to provide information, and its response was incomplete. My investigator had to interview officers, who in turn provided misleading information. The director made a written apology and the council paid compensation and agreed to monitor problems in future.

Communicating decisions

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. Our next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further transparency to our work.

Extended powers

During 2010/11 our powers were extended to deal with complaints in two significant areas.

In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. The increasing number of people who arrange and pay for their own social care now have the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 89 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

Schools in your area have been covered by our new powers since April 2010. In 2010-11 we received ten complaints. These were about bullying, special needs not being met in school, inappropriate exclusions from school and the cost of a school trip. Across the 14 areas generally, the biggest complaint categories were bullying (34%), teacher conduct (27%) and special educational needs (21%).

Of the complaints decided in your area

- In three cases we initiated an investigation.
- In seven cases the complaint was referred back to the school for it to consider using its own procedures as it had not had the opportunity to do so.

The outcome of the three cases where we initiated an investigation was:

- We secured a remedy and/or agreement for action to prevent similar problems recurring in two of the cases.
- In one we found that there was no fault in the actions of the school or there was no substance to the complaint.

Decisions in the 14 areas can be broken down as follows:

- In 47% of cases we initiated an investigation
- In 48% of cases the complaint was referred back to the school for it to consider using its own procedures as it had not had the opportunity to do so
- In 5% of cases we were unable to consider the complaint as it was not within our jurisdiction (for example there was an alternative course of action available or the complainant was not a parent or pupil of the school).

The outcome of the 47% of cases where we initiated an investigation was:

- A satisfactory resolution was reached between the parties in 25% of cases following the Ombudsman's involvement (and the investigation was discontinued).
- We secured a remedy and/or agreement for action to prevent similar problems recurring in 13% of the cases.
- In 9% we found that there was no fault in the actions of the school or there was no substance to the complaint.

Our new powers coincided with the introduction of treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

Assisting councils to improve

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. During 2010/11 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.

These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

Details of training opportunities are on our web site at www.lgo.org.uk/training-councils/

More details of our work over the year will be included in the 2010/11 Annual Report. This will be published on our website at the same time as the annual review letters for all councils (14 July).

If it would be helpful to your council we should be pleased to arrange for a senior manager to meet

and explain our work in greater detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Martin', with a horizontal line underneath.

Dr Jane Martin
Local Government Ombudsman

For further information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

| Enquiries and complaints received | Adult Care Services | Benefits & Tax | Corporate & Other Services | Education & Childrens Services | Environmental Services & Public Protection & Regulation | Highways & Transport | Housing | Other | Planning & Development | Total |
|---|---------------------|----------------|----------------------------|--------------------------------|---|----------------------|-----------|----------|------------------------|------------|
| Formal/informal premature complaints | 0 | 9 | 0 | 3 | 7 | 3 | 21 | 0 | 4 | 47 |
| Advice given | 1 | 5 | 1 | 7 | 2 | 3 | 9 | 1 | 1 | 30 |
| Forwarded in investigative team (resubmitted) | 0 | 2 | 0 | 0 | 2 | 0 | 11 | 0 | 1 | 16 |
| Forwarded to investigative team (new) | 5 | 7 | 3 | 28 | 5 | 7 | 16 | 2 | 0 | 73 |
| Total | 6 | 23 | 4 | 38 | 16 | 13 | 57 | 3 | 6 | 166 |

Investigative Team

| Decisions | Reports: maladministration and injustice | Local settlements (no report) | Reports: Maladministration no injustice | Reports: no Maladministration | No Maladministration (no report) | Ombudsman's discretion (no report) | Outside jurisdiction | Total |
|--------------------|--|-------------------------------|---|-------------------------------|----------------------------------|------------------------------------|----------------------|-----------|
| 2010 / 2011 | 0 | 30 | 0 | 0 | 19 | 16 | 11 | 76 |

Adult social care decisions made from 1 Oct 2010*

| | To discontinue investigation, other | Total |
|-------------|-------------------------------------|-------|
| 2010 - 2011 | 1 | 1 |

*These decisions are not included in the main decisions table above. They use the new decision reasons from 1/10/10.

| Response times | First enquiries | |
|-------------------------|-----------------------|---------------------------|
| | No of first Enquiries | Avg no of days to respond |
| 01/04/2010 / 31/03/2011 | 51 | 22.0 |
| 2009 / 2010 | 35 | 33.2 |
| 2008 / 2009 | 46 | 23.9 |

| Response times adult social care 1/10/10 - 31/3/11 | First enquiries | |
|--|-----------------------|---------------------------|
| | No of first Enquiries | Avg no of days to respond |
| 2010/2011 | 1 | 21.0 |

Provisional comparative response times 01/04/2010 to 31/03/2011

| Types of authority | <= 28 days % | 29 - 35 days % | > = 36 days % |
|----------------------------|-----------------|-------------------|------------------|
| District councils | 65 | 23 | 12 |
| Unitary authorities | 59 | 28 | 13 |
| Metropolitan authorities | 64 | 19 | 17 |
| County councils | 66 | 17 | 17 |
| London boroughs | 64 | 30 | 6 |
| National parks authorities | 75 | 25 | 0 |