

24 June 2011

Mr Peter Hendy
Commissioner of Transport
Transport for London
Windsor House
42 - 50 Victoria Street
London SW1H 0TL

Dear Mr Hendy

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ending 31 March 2011. I 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 Authority. 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. I have decided to add a commentary to the attached statistics in view of the number and range of complaints against your Authority that my office dealt with in the year.

Enquiries and complaints received

Last year our Advice Team dealt with 183 enquiries and complaints about your authority. This is a reduction on the number received in 2009/10. Of these enquiries and complaints received, 54 related to complaints that were deemed to be premature and so were referred back to you for investigation. Our Advice Team forwarded 75 complaints to the investigative team, which was a significant reduction on the 2009/10 figure of 106. Forty five of the complaints forwarded were about the issuing of and subsequent enforcement of penalty charge notices, 14 about public transport and the remainder were about miscellaneous highway matters. We continue to receive complaints from passengers about the operation of public transport in the capital. These complaints are outside my jurisdiction and so we advise people to make them to London TravelWatch.

The average time for your authority to reply to our written enquiries last year was 25.6 days which meets our target period of 28 days. There is however a significant discrepancy between the average time taken to respond to complaints about enforcement matters, and the time taken to

respond to other complaints made against your authority. Whilst the average time for responding to enforcement complaints is 13.3 days, with some responses coming within two days of enquiries being made, the average time for other complaints is 37.9 days. This average contains two complaints where the time taken to respond exceeded 90 days. The figures do not include a third complaint where further enquiries had to be made following an unsatisfactory initial response, when the additional information was not provided until a further 63 days had elapsed. I would welcome your thoughts on what steps your authority could take to improve the response times.

Complaint outcomes

This year we made 77 decisions about complaints against your authority. We decided that 40 of the complaints were outside our jurisdiction, and in 17 complaints we either found no maladministration leading to significant injustice to complainants or exercised discretion not to pursue the complaint further. We made decisions on 28 complaints about congestion charge matters and 16 decisions about complaints about penalty charge notices.

54% of the complaints we decided against your authority which were within our jurisdiction were 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 2010/11, 27.1% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. £4,632 was paid in total by your authority, either in compensation or in cancelled fines – approximately half of what had been paid in the previous year.

Your annual figures show that almost a quarter of a million warrants were issued to bailiffs in respect of congestion charge penalties. My officers continue to have concerns about enforcement being undertaken by bailiffs where owners say they have received none of the statutory notices following the issue of a penalty. We received a number of complaints about the lack of information available to motorists when they were confronted by a bailiff tasked with enforcing penalties. One such complaint related to the enforcement of two parking penalties where the complainant told the bailiff that she had received none of the statutory notices. The bailiff continued with enforcement and collected £767 from the complainant including the penalties themselves and the bailiff's charges. The complainant wrote to the bailiff and Transport for London explaining that she had not been aware of the penalties before the bailiff called. Neither the bailiff nor Transport for London told the complainant that she could apply to make a statutory declaration 'out of time' that she had not received the statutory notices and that if the statutory declaration was accepted by the court, the penalties would be cancelled back to the initial stage and the amount collected by the bailiff would be refunded.

Following investigation of this complaint, Transport for London accepted that it had not correctly advised the complainant. It refunded the payment made by her and agreed to revise its procedures to improve the information available to motorists generally at the bailiff enforcement stage. We welcome the steps which your authority has taken to make this process more open and transparent, and the additional information which has been provided on the making of statutory declarations which is now available by way of leaflets and online.

My investigators have commented on your Authority's willingness to exercise its discretion to cancel penalties when they have been correctly issued but mitigating circumstances have arisen.

In one case I dealt with this year, a complainant mistakenly believed that the low emissions from her car meant she was exempt from paying the congestion charge. She did not know that before she could drive in the charging zone without paying the charge that she needed to apply to Transport for London for the car to be registered as exempt. She drove in the zone without having this exemption and had accumulated five penalties before she realised there may be a problem. The penalties had escalated to £900 in total before she complained to us. My investigator took the view that the penalties had been properly issued and enforced. But when Transport for London was informed of the complaint, the authority took the view that this was a genuine mistake on the part of the motorist and agreed to cancel all the penalties which had been issued. It seems that, as in previous years, Transport for London has continued to take a sympathetic view of such errors.

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. My 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. Anyone who arranges and pays for their own social care now has 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 1351.

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.

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 local authorities 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 local authorities as an important part of our work.

During 2010/2011 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 on 14 July.

If it would be helpful to your authority I should be pleased to arrange for a senior manager to visit to 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 information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

Enquiries and complaints received	Corporate & Other Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Other	Planning & Development	Total
Formal/informal premature complaints	0	3	51	0	0	54
Advice given	2	0	49	3	0	54
Forwarded in investigative team (resubmitted)	0	1	5	0	0	6
Forwarded to investigative team (new)	1	2	63	1	2	69
Total	3	6	168	4	2	183

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	20	0	0	13	4	40	77

No adult social care decisions were made in the period

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	18	25.6
2009 / 2010	33	31.3
2008 / 2009	46	39.1

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