

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

**The London Borough of
Bromley**
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 London Borough of Bromley 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about London Borough of Bromley. 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 94 enquiries and complaints relating to the council compared to 120 in 2008/09. These were spread fairly evenly across the various service areas of the council with 16 complaints about both housing and planning and building control. There were 14 about education, 11 about adult care services and seven about children and family services. Eight complaints were about transport and highways and five for both public finance and benefits. The remaining 12 covered other services areas such as anti-social behaviour and environmental health.

A total of 61 were passed to the investigative teams (50 new complaints and 11 resubmitted premature complaints). This compares with 66 complaints that were forwarded for investigation in 2008/09. We treated 16 complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In 17 cases we gave the complainant advice.

Complaint outcomes

We decided 58 complaints against the council. In 25 cases we found no evidence of maladministration and 12 complaints were outside my jurisdiction. In just four cases we exercised discretion not to investigate further.

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 17 (29.3%) were closed as a local settlement. We recommended that the council should pay compensation of £13,475. I will refer to some of the more noteworthy examples below.

Adult care services

The complainant's adult son has autism. For part of the weekend he lived in supported accommodation. There had been problems and delays in finding a new home for him and suitable carers. There was also a lack of an up-to-date care plan and a lack of focus in arranging full seven days a week care. The council agreed to pay compensation of £2,500 for the delay in making new arrangements for care, the lack of a care plan and problems in moving to seven day a week care. Both the complainant and the council agreed to take part in mediation provided by my officers to move matters forward in respect of seven day a week support.

Children and family services

The complainant had been brought up in care and foster homes. She wanted to view the council files relating to her childhood but they could not be found. The council agreed to pay compensation for the distress the complainant was caused by not being able to access her files and also to pay up to £1,000 for counselling.

In another complaint the complainants adult daughter was discharged from hospital to their care following a stroke. An initial assessment of her needs failed to identify clearly how her needs would be met. The complainants faced considerable strain balancing shift work with only minimal support although the council had thought that support provided was in accord with their wishes. However a further assessment was similarly flawed. The council has changed its assessment procedure since these events and agreed to pay compensation of £3,000 to mainly reflect the care the complainants provided which should have been provided by way of a care plan.

Education

The complainant's daughter was bullied at school. Her mother withdrew her and the council failed to make sufficient alternative provision over the following two years and delayed unreasonably in dealing with the complainants' request for a statement of special educational needs. Compensation of £2,000 for the period for which she was without adequate education was agreed accepting that the council was not wholly to blame for the situation.

Another complaint concerned a child who was being educated otherwise than at school. The council did not have a procedure in place to ensure that children who were not educated in school could gain access to vocational study courses. This meant that the complainant's son was unable to obtain a place on the course his friends were attending although there was no guarantee that he would have obtained a place had he been aware of it. The council agreed to draw up a procedure to ensure that children educated out of school received the same opportunities in terms of access to college courses as children educated in school. The council also agreed to pay compensation of £100 for the disappointment experienced at not being able to attend the preferred course.

Highway management

The council had said that the verges in the complainant's road were unadopted and that residents were therefore responsible for their maintenance. In 2005 it was realised that in fact the verges had been adopted in 1968 but it was not until 2007 that the council took over maintenance of them from the residents' association. The council agreed to pay compensation of £3,000 which reflected the costs the association had incurred in maintaining the verges and £400 for the time and trouble in pursuing the complaint.

Parking

We considered three complaints about the parking service. In two complaints the council wrongly issued a parking contravention notice and the council agreed to pay compensation of £50 to one complainant and £100 to the other as in that case it issued two incorrect notices. In the other it had not properly considered the complainants representations and it agreed to pay compensation of £50.

Planning

One complaint concerned the implementation of planning permission for development near to the complainant's home. There was delay in the council carrying out an enforcement investigation to establish if the development was proceeding in accordance with the approved plans and in keeping the complainants informed. The council agreed to pay compensation of £250 for the uncertainty and frustration the complainants experienced.

In response to a planning application by his immediate neighbour, in another complaint, the complainant pointed out errors in the boundary between his and the application site. The council raised the point with the developer but did not pursue it any further which in the particular circumstances it would have been appropriate to do. The error in the depiction of the boundary meant that the separation between the development and the complainant's property as specified in the conditions on the planning permission could not be achieved. The council did consider enforcement action but not on the basis that this was a boundary dispute which was not the case as there was no dispute as to the line of the boundary. But it was not possible to say that planning permission in the same form would not have been granted and it was therefore only reasonable to provide compensation of £500 for the time and trouble the complainant had been put to.

Two complaints concerned the processing of planning applications. In such complaints my jurisdiction is limited but in both cases the council offered compensation of £150 and £250 which I considered reasonable without coming to a view on the substance of the complaints and whether they did fall within my jurisdiction.

Liaison with the Local Government Ombudsman

We made formal enquiries on 39 complaints and the council achieved an average response time of 30.2 days. This was a slight improvement on the previous year although still outside our target of 28 days. However the average figure masks a wide variation between complaints. In particular I am concerned to note that the average figure for complaints concerning planning and building control is 52 days. I would suggest that the council may wish to consider if there are measures it could take to ensure consistency in the provision of timely and thorough responses to my officers' enquiries.

Training in complaint handling

I am pleased that during 2009/10 we provided training in Good Complaint Handling to staff from your authority. 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.