

# Local Government OMBUDSMAN

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

## **Dudley Metropolitan Borough Council**

**for the year ended  
31 March 2008**

The Local Government Ombudsman (LGO) provides 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, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual letters.

## **Annual Letter 2007/08 - Introduction**

This annual letter provides a summary of the complaints we have received about Dudley Metropolitan Borough 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 letter will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two attachments form an integral part of this letter: statistical data covering a three year period and a note to help the interpretation of the statistics.

## **Complaints received**

### **Volume**

We received 100 complaints against your Council this year, 11 less than last year. We expect to see fluctuations like this from year to year.

### **Character**

Thirty-one complaints were about planning and building control and 27 were about housing, nearly half the number we received about housing last year. These two sections continue to be the major source of complaints received. Education had the next largest number at 12 complaints this year. The other complaints received covered the whole spectrum of council services.

## **Decisions on complaints**

### **Reports and local settlements**

When we complete an investigation we issue a report. I issued four reports against your Council this year covering six complaints. The Council agreed the remedies recommended and a total of £4122 compensation was paid out. This figure does not include remedies where a valuation was required to calculate the remedy to be paid.

In a complaint about children and family services I found that the Council's refusal to pay kinship foster carers the same additional payments for Christmas and birthdays as they made to other approved foster carers, or to pay them the higher foster carers' allowance, was maladministration causing injustice. In response to recommendations made during the investigation, the Council agreed to pay the backdated higher foster carers' allowance and additional allowances, a total payment of £2872. The Council also agreed to reconsider and review its kinship care policy. It would be helpful to know when that policy has been reviewed and the outcome.

In a complaint about housing I found that the Council had wrongly felled some ornamental trees and a rose tree while replacing a fence at a complainant's home. This was maladministration causing injustice. The Council agreed to pay £250 compensation and to pay the complainant the cost of the trees and shrub destroyed.

I issued reports about four complaints concerning planning and building control.

In two complaints about the same planning application, the Council failed to inform the complainants of significant amendments so they lost the opportunity to object. The new plans contravened the window to window separation guidelines and so the new houses directly overlooked the complainants. The Council agreed with my recommendation that it would pay to each of the two complainants £250 for the inconvenience in making a complaint to the Council and to me, and to pay any difference between the value of the complainants' home before and after the amended development. Although

the Council has agreed to provide the remedy, it has still not been delivered. Where a council fails to implement my recommendations I have to issue a further report. I hope that will not be necessary in this case, and I would urge the council to arrange for the necessary valuations and pay the compensation accordingly.

In two other complaints I found maladministration by the Council in its failure to notify residents of a planning application to convert a building into an advice centre, losing the complainants their opportunity to make representations. The Council agreed to pay £250 in recognition of the inconvenience and to review its scheme of delegation to make it clearer when such applications would be decided by officers or Committee.

A 'local settlement' is a complaint where, during the course of our investigation, the Council has agreed to take some action which we consider is a satisfactory response to the complaint. The investigation is then discontinued. In 2007/08 the Local Government Ombudsmen determined some 27% of complaints by local settlement (excluding 'premature' complaints - where councils have not had a proper chance to deal with them - and those outside our jurisdiction).

Fourteen local settlements were agreed this year and £3587 was paid in compensation.

The Council approved a disabled facilities grant for a complainant and paid out part of the grant to the builder even though it had been told the boiler the builders had fitted was faulty and had been fitted by unqualified contractors. The Council recommended a different contractor and agreed to bear the costs of putting the matter right, amounting to £648.

In another complaint the Council refused to transfer a couple who had been complaining of nuisance from their neighbours. I found that the Council had failed to collect diary sheets and review all the evidence. The Council agreed to review the evidence, meet with the police and take appropriate action as well as considering whether a move could be offered on estate management grounds.

In a complaint about housing repairs the Council was found to have delayed replacing the complainant's kitchen window and bath leaving the complainant unable to open the kitchen window for six months and without a bath for three months. The Council agreed to carry out the work and to pay £250 for the inconvenience caused to the complainant.

In a similar case the Council delayed fitting a fire in the complainant's kitchen which was the only source of heat for two weeks. The Council offered to pay £114 in compensation, the equivalent of two weeks' rent.

In another repairs complaint the Council was found to have failed to ensure that its contractors cleansed the complainant's garden of sewage following a failure in the drainage system and that it had failed to carry out repairs at the property such as replacement of guttering and windows. The Council agreed to complete all outstanding repairs and to pay £500 for the delay in cleansing the garden.

In one complaint about school admissions, the Council failed to take into account medical evidence submitted on appeal. On the submission of further evidence the Council offered a new appeal hearing in settlement of the complaint.

In a complaint about school exclusions it was found that the Council had failed to offer home tuition when the direction to a particular school had failed and there was no alternative education provided. The Council accepted there had been failings and agreed to a payment of £1000. Of that sum £750 was to be retained to be used to support the student's future learning needs and the remaining £250 to be paid to the complainant for the time and inconvenience of having to pursue the complaint.

## **Other findings**

Thirty complaints were treated as premature and referred back to your Council so that they could first be considered through your Council's complaints procedure.

In a further 12 complaints I took the view that the matters complained of were outside my jurisdiction. And in three I exercised my discretion not to pursue the complaints.

The remaining 36 complaints were not pursued because no evidence of maladministration was seen.

## **Your Council's complaints procedure and handling of complaints**

The proportion of premature complaints is about the same as in previous years although it continues to be above the national average of 27%. I drew your attention to this last year and suggested that you may want to look more closely at why the proportion remains high. The Council's website continues to give clear information on the Council's complaints procedure and has details on how to contact my office. But it may be that your staff are not signposting aggrieved service users early enough to the complaints procedure.

Of the 30 complaints referred back to your Council eight were subsequently re-submitted to me. In three I reached local settlements, in one I decided the matters complained of were outside my jurisdiction, and in the remaining four I found no evidence of maladministration. The number of local settlements reached after complainants have exhausted your complaints procedure shows that the Council needs to improve the robustness of its procedures. It is clear that you are losing early opportunities to remedy your citizens' justified grievances.

## **Liaison with the Local Government Ombudsman**

We made enquiries into 51 complaints. Last year the Council took on average 27.4 days to respond to my enquiries, this year that has fallen to 24.4 days. I congratulate the Council on this further improvement in response times which is within our 28 day target. It is commendable given that the number of enquiries has not changed and yet further improvements in times have been achieved. I hope to see this continue.

However, I am disappointed that some remedies agreed before I issued reports on two complaints have not yet been fully satisfied. I would urge your Council to take steps to ensure that remedies are delivered promptly and without my having to consider issuing further reports. There seems to be a great deal of dithering among your officers when considering just how agreed remedies are to be implemented in practice. The Council needs to get more of a corporate grip on these important matters.

## **Training in complaint handling**

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. This year we carried out a detailed evaluation of the training with councils that have been trained over the past three years. The results are very positive.

The range of courses is expanding in response to demand. In addition to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution) we now offer these courses specifically for social services staff and a course on reviewing complaints for social care review panel members. We can run open courses for groups of staff from different smaller authorities and also customise courses to meet your Council's specific requirements.

All courses are presented by an experienced investigator so participants benefit from their knowledge

and expertise of complaint handling.

I have enclosed some information on the full range of courses available together with contact details for enquiries and any further bookings.

### **LGO developments**

We launched the LGO Advice Team in April, providing a first contact service for all enquirers and new complainants. Demand for the service has been high. Our team of advisers, trained to provide comprehensive information and advice, have dealt with many thousands of calls since the service started.

The team handles complaints submitted by telephone, email or text, as well as in writing. This new power to accept complaints other than in writing was one of the provisions of the Local Government and Public Involvement in Health Act, which also came into force in April. Our experience of implementing other provisions in the Act, such as complaints about service failure and apparent maladministration, is being kept under review and will be subject to further discussion. Any feedback from your Council would be welcome.

Last year we published two special reports providing advice and guidance on 'applications for prior approval of telecommunications masts' and 'citizen redress in local partnerships'. I would appreciate your feedback on these, particularly on any complaints protocols put in place as part of the overall governance arrangements for partnerships your Council has set up.

### **Conclusions and general observations**

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 Council's services.

**J R White**  
**Local Government Ombudsman**  
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**June 2008**

Enc: Statistical data  
Note on interpretation of statistics  
Leaflet on training courses (with posted copy only)