

Local Government
OMBUDSMAN

Appendix 1

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

**Dudley Metropolitan Borough
Council**

**for the year ended
31 March 2009**

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 reviews.

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Section 1: Complaints about Dudley Metropolitan Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with 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 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 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

Our Advice Team received 118 complaints and enquiries during the year. Of these 40 were about housing issues, 18 concerned either adult care or children and family services and 13 related to planning and building control.

We treated 48 complaints and enquiries as premature. In a further 21 cases advice was given, usually to say that the complaint should be made directly to the Council. This meant that in all, 58% of the complaints and enquiries we received had not gone through the Council's own investigation procedures. This figure rose to 72.5% for complaints about housing which suggests an urgent need for more effective signposting of your Council's complaints procedures. The remaining 49 cases were forwarded to the investigation team either as new complaints or as resubmitted complaints.

Complaint outcomes

I decided 55 complaints against the Council during the year. In 22 of those I found no evidence of maladministration. I exercised my discretion not to investigate a further 10 cases. These were generally cases where, whether or not there may have been fault by the Council, there was no

significant injustice to the complainant. In another 11 cases I was satisfied that the complaints were about matters outside my jurisdiction and so I did not conduct investigations into them.

Reports

I am pleased to be able to say that in the last year I had no cause to issue any reports against your Council.

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 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority 12 were resolved through local settlements, representing 22% of the total number of decisions.

Five of the settlements were for complaints about planning applications although three of these were linked complaints about the same matter. This concerned the granting of planning consent without applying the Council's policy over window to window separation. I concluded that if there had not been fault then a different planning decision was likely to have been made. Valuations of the complainants' properties, as they are and as they would have been, were carried out. The Council agreed to pay the complainants any difference between the valuations.

In another planning case your Council paid compensation of £500 after it had failed to notify the complainant of a revised planning application by a neighbour. The payment reflected his outrage and loss of opportunity to submit objections. Another case involved the failure to notify a neighbour of an application to build a conservatory which reduced the width of a shared path. The path was restored and the complainant received £500 for the failure to notify him of the application.

The Council paid compensation of £100 to a complainant whose housing benefit claim had not been amended correctly and who had been sent incorrect demands. The Council willingly accepted the need to settle his complaint in this way.

Another local settlement involved a case about land ownership. The Council delayed providing a boundary fence for three years resulting in trespass onto the complainant's land. The Council agreed to recognise that crops had been damaged between 2004 and 2008 by paying £250 in compensation.

Another settlement involved the Council's attempts to recover an overpaid council tax discount. The Council had pursued the complainant despite its own failure to realise the discount no longer applied. Once this was appreciated the Council wrote off the deficit of £134 and agreed to pay £70 in compensation for the inconvenience that had been caused.

The Council resolved two complaints of antisocial behaviour. In one the Council attempted to arrange mediation but, when this attempt failed, it offered to carry out out-of-hours monitoring of noise complaints from a neighbouring property despite the complainant's failure to collect enough evidence to support the complaint.

In total the Council made compensation payments of £1420 to complainants during the year.

Liaison with the Local Government Ombudsman

I made formal enquiries on 30 complaints during the year. Your Council's average response time was 25.7 days. This was very similar to last year's figure, for which I congratulated the Council. I am happy to repeat my praise for the efforts that have been made to produce prompt responses. Your Council has made good use of electronic communications at every opportunity as a way of saving time and my officers report that the Link Officer is also very quick to respond to any queries or requests for clarification or further explanations. I have also noted that the Council has taken early action to negotiate settlements in some cases without awaiting my request to do so.

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. 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.

Your Council has been pro-active in the way it collates and sends detailed and helpful replies to my officers. It has also shown a willingness to settle a number of complaints promptly and sometimes without waiting to be asked to do so. However, the proportion of premature complaints, particularly about housing and social care, is still a cause for concern. I hope that your Council can look at this carefully to try and identify the causes and possible solutions. My officers would be available to discuss this if required, but the Council may also wish to consider one of our training courses as a way to address the issue.

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 Council's services.

J R White
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CV4 8JB

June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a 'statement of reasons' for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council's own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I 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 local 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.

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June 2009

Appendix 2 Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

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.

Formal/informal prematures: 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 usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted 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 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 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 Ombudsman 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 Ombudsman'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 Ombudsman'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 2008/09

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	5	5	0	22	2	3	1	1	9	48
Advice given	1	0	1	7	0	1	4	3	4	21
Forwarded to investigative team (resubmitted premature)	0	1	0	6	0	1	3	0	3	14
Forwarded to investigative team (new)	3	3	4	5	1	0	5	3	11	35
Total	9	9	5	40	3	5	13	7	27	118

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	12	0	0	22	10	11	55

Response times

	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	30	25.7
2007 / 2008	51	24.4
2006 / 2007	52	27.4

Average local authority response times 01/04/2008 to 31/03/2009

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	60	20	20
Unitary authorities	56	35	9
Metropolitan authorities	67	19	14
County councils	62	32	6
London boroughs	58	27	15
National park authorities	100	0	0