

Local Government
OMBUDSMAN

Appendix 1

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

**Dudley Metropolitan Borough
Council**

**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 Dudley Metropolitan Borough Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about the Dudley Metropolitan 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 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

In 2009/10 we received 91 enquiries and contacts relating to the council. A total of 35 of these were about housing, 17 about planning and building control, seven about adult care services, six about education, five about children and family services, three about transport and highways, two about benefits, one about public finance and 15 others, including areas such as anti-social behaviour, drainage, land and leisure and culture.

A total of 40 were passed to the investigative team (30 new complaints and 10 resubmitted premature complaints). We treated 36 complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In a further 15 cases we gave the complainant advice.

This compares with 118 complaints and enquiries in 2008/09, 49 of which were forwarded to the investigative team. We expect to see slight fluctuations of this kind over time.

Complaint outcomes

We decided 46 complaints against the council during the year. In 17 cases we found no evidence of maladministration, and seven complaints were outside our jurisdiction. In a further five cases we exercised our discretion not to investigate further. Typically these are cases where even though there may have been some fault by the council there is no significant injustice to the complainant.

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 were local settlements, representing 37% of complaints decided. We recommended that the council should pay a total of £3,500 in compensation in 2009/10. In this letter I shall deal with some of the more noteworthy example below.

Children and family services

In one case my predecessor found that the council had failed to take action over a referral for a child diagnosed as autistic or to provide sufficient support when he was in care. It also placed him in inappropriate surroundings and failed to keep correct records of his medication. It also failed to follow correct procedures when the young person was interviewed at a police station and failed to complete a thorough investigation into the complaint. The complainant suffered stress and anxiety as well as the time and trouble she was put to in pursuing the complaint. Your council accepted it was at fault and agreed to pay compensation of £1,000 as well as drawing up an action plan to resolve the problems and also funding a Reiki course for the young person involved.

Another complaint was from foster carers who had not been informed of concerns that the council had about the way they had dealt with some incidents prior to the council removing them from the register. Although my predecessor could not say that they would not have been deregistered but for these faults, he found that the council had caused uncertainty and distress for the complainants. The council agreed to pay them compensation of £750 and to arrange an independent review of the case by Barnardos.

Housing

A complainant suffered damage to the family home through water leaking from the flat above, causing damage to the kitchen and bathroom. We found that the council had failed to make contact with the owners of the flat and that the complainant had been unable to redecorate for fear of further flooding. The council agreed to draw up an action plan to contact the owner, to find the cause of the leak and carry out repairs as required. The council also agreed to pay compensation of £250 to the complainant.

We dealt with a number of other complaints about housing repairs. In one of these the council had proposed to charge a tenant £750 to clean her home at the termination of her tenancy without taking account of the complainant's medical problems. Once it did look at the medical history notes it readily agreed to reduce this charge to £100 which the complainant accepted was reasonable.

Environmental health

My predecessor considered a complaint from a person affected by noise and vibration from a heating boiler in the adjoining house, fixed to a party wall. The council was the landlord and it delayed in relocating the boiler for several months. The council apologised for its delay in taking action and moved the boiler to a different wall. It also agreed to pay the complainant £700 for the disturbance caused by the noise and for the delay.

Education

One complaint was from a parent who was separated from his spouse. The council sent only one set of school transfer application documents to the spouse, contrary to guidance issued by the government which was that both parents should be given the information if they are not living together. The council had been unaware of this guidance and I asked it to review its policy, taking into account the relevant government guidance. It also agreed to send the complainant the relevant forms and to include him in any further decision-making about his children.

My predecessor received a complaint about a school admissions appeal. The complainants had been sent the wrong documents prior to the hearing and had not been made aware of what representations they could bring to the hearing. Once the council was made aware of the error it readily offered a fresh hearing and also agreed to revise the contents of the documents sent to appellants. The Ombudsman felt that the council could have done this without his involvement but

he was pleased by the prompt response from the council once he sought a settlement, so that matters could be resolved in time for the new term.

Planning

In one case, the council failed to place a set of amended plans on its website and the planning report contained inaccurate measurements. These were relied on by committee members when they met and approved the application. The complainant was left with uncertainty as to whether approval would have been given, had the correct plans been considered. The council agreed to pay compensation of £750 for that uncertainty and to ensure that procedures for checking amended plans were improved. This process had already been put in place prior to our decision.

Liaison with the Local Government Ombudsman

We made formal enquiries on 32 complaints this year. The council took an average of 26.8 days to reply to my enquiries, which is very similar to the figure for 2008/09, and well within the 28 day target I set for councils. However, the average response times for three complaints about children and family services was 59.3 day, which was very disappointing. In contrast, the five enquiries about education complaints produced an average response time of only 19.6 days and planning and building control was 23.5 days. My officers have found that the link officer has been positive and helpful in trying to obtain responses to enquiries and in keeping them updated if there are reasons for any delays in doing so.

Training in complaint handling

I would like to take this opportunity to remind the council that 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.

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

Conclusions

Last year my predecessor referred to the higher than average number of premature complaints he received from the council. This number has fallen but it still represents a larger than average proportion of the complaints. I note that the council had begun to address this issue and I hope that this results in a continued reduction in the number of complaints that reach us without completing the council's own investigative process.

I also note that eight of the local settlements related to housing complaints. This suggests that the council may be overlooking the opportunity to recognise faults in this area and to propose appropriate remedies before they come to me. It may be appropriate for the council to consider whether there are any trends in the nature of the housing complaints that can be identified and addressed in order to reduce the number of such complaints. The council may also benefit from reviewing the way that complaints about housing matters are investigated, based on the number of cases in which we have found faults by the council and sought a remedy.

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 : 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.

LGO Advice Team

Appendix 3

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	2	1	0	10	1	1	10	3	8	36
Advice given	3	1	0	9	0	0	1	0	1	15
Forwarded to Investigative team (resubmitted premature)	0	1	0	5	0	0	1	0	3	10
Forwarded to investigative team (new)	2	2	6	11	1	0	5	0	3	30
Total	7	5	6	35	2	1	17	3	15	91

Investigative Team

Decisions	Decisions							Outside jurisdiction	Total
	MI reps	LS	M reps	NM reps	No mal	Omb disc			
2009 / 2010	0	17	0	0	17	5	7	46	

Appendix : Local Authority Report - Dudley MBC

For the period ending - 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	32	26.8
2008 / 2009	31	25.1
2007 / 2008	51	24.4

Average local authority resp times 01/04/2009 to 31/03/2010

Types of authority	<= 28 days %	29 - 35 days %	>= 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20