

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

**London Borough of Lewisham
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.

Contents of Annual Review

Section 1: Complaints about London Borough of Lewisham Council 2008/09	3
Introduction.....	3
Enquiries and complaints received.....	3
Complaint outcomes.....	4
Liaison with the Local Government Ombudsman.....	5
Training in complaint handling.....	5
Conclusions.....	6
Section 2: LGO developments	7
Introduction.....	7
Council First.....	7
Statement of reasons: consultation.....	7
Making Experiences Count (MEC).....	7
Training in complaint handling.....	7
Adult Social Care Self-funding.....	8
Internal schools management.....	8
Further developments.....	8
Appendix 1: Notes to assist interpretation of the statistics 2008/09	9
Appendix 2: Local authority report 2008/09	

Section 1: Complaints about London Borough of Lewisham Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about London Borough of Lewisham Council.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Complaints against the Council have, in recent years, been dealt with by the Commission's Coventry office. Part way through this year, for operational reasons, responsibility for complaints against the Council passed to the Commission's York office.

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 telephone calls to our service has increased significantly since then to more than 3,000 a month. Our advisers now provide comprehensive information and advice to people who telephone, write or e-mail. It enables citizens to make informed decisions about whether to put their complaint to us.

This means that direct comparisons with some previous year-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

The Commission received, in total during the year, 253 enquiries and complaints about the Council. Our Advice Team dealt with 55 requests for advice and considered 97 complaints to be premature in the sense that the Council appeared not to have been given the opportunity to address the concerns of the citizen. In these case we either, sent the complaint to the Council with the request that the matter be considered by the Council through its internal complaints procedure or, we advised the complainant to approach the Council directly.

I received a total of 101 complaints to consider. Of these, 35 were complaints re-submitted by people unhappy with the way in which the Council had dealt with their complaint while 66 complaints were new to me.

The complaints forwarded to me broke down into the following categories.

Housing	40
Planning and Building Control	20
Public Finance	6
Transport and Highways	6
Antisocial Behaviour	6
Housing Benefit	4

Environmental Health	3
Waste Management	3
Education	3
Adult Social Care	3
Children and Family Services	2
Miscellaneous	5

Complaint outcomes

I determined 103 decisions during the year a figure which differs from the number of complaints received because of work in hand at the beginning and the end of the year. The figure of 103 represents a slight decrease in complaints [excluding premature complaints] when compared with the previous year but this continues the downward trend, started in 2004, in complaints forwarded to the Ombudsman.

Of those complaints determined by me, 12 were closed on the basis that they were not within my jurisdiction while in 23 further complaints I exercised the general discretion available to me not to pursue the matter. In 39 cases I found no evidence of maladministration by the Council sufficient to justify my continued involvement. The Council agreed to settle the remaining 29 complaints accepting that something had gone wrong and that it was appropriate to provide a remedy of some description for the complainant.

We will often discontinue enquiries into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. The complaints settled by the Council this year amounted to 31.8% of the complaints I decided against your authority and which were within my jurisdiction.

I do not intend referring to each complaint settled by the Council in detail and no trends emerged during the year to cause any concern such that a detailed breakdown of complaints by category here would be helpful. Some settlements are though worthy of mention.

In one case the Council agreed to pay £4,500.00 in compensation when we [I say we because this was a complaint considered by my colleague in Coventry before responsibility for complaints against the Council was transferred to me] established that the Council had delayed for four years in transferring the complainant from overcrowded and inappropriate accommodation. I regret that the Council was, initially, resistant to agreeing to offer a settlement in this case and it was more regrettable that the Council sought, at one stage, to blame the complainant for her predicament. The position of the Council as presented to my colleague in writing was not supported by the evidence later provided when officers were formally interviewed and this prompts me to pose a question about the robustness of the internal scrutiny of complaints by the Council. The Council, to its credit, agreed to my recommendations and I believe a just settlement was reached in the end.

I refer above to the robustness of the scrutiny of complaints by the Council because I have detected in some cases a degree of defensiveness on the part of the Council in the face of potential criticism. One such complaint concerned a complainant who was both homeless and suffering from a mental health problem. The Council defended its position unnecessarily and only agreed to settle when it was advised that the alternative would be for me to issue a public report. The settlement involved nothing more than reinstating the complainant on the general housing register, backdating her priority to the date of the original application and promising to review and revise the policy of the Council. My concern about this complaint arises out of the fact that a similar issue had been determined by my colleague in Coventry previously and the Council had then been advised that its policy was vulnerable to criticism.

I give the Council credit for its willingness, generally, to settle complaints when it is persuaded that something has gone wrong and there are a number of examples in the body of those complaints settled locally by the Council in which the response of the Council has been very positive and where the Council has been quick to acknowledge fault and to agree a remedy. However I would ask the Council to reflect upon the point I make above about being, on occasions, too defensive in the face of likely criticism.

Reports

Neither I nor my colleague issued a public report against the Council during the year.

Liaison with the Local Government Ombudsman

Because of the transfer of responsibility for complaints against the Council from our Coventry office to our York office I met during the year with the Council's Mayor and I, together with one of my management team, met with the Council's Chief Executive. One of my management team also met the Council's liaison staff. These meetings were to explain the reasons for the transfer of responsibility for complaints against the Council and to establish a working relationship. These meetings were, in my view, very positive and I hope that we are able to build on what are early signs of a good working relationship.

I ask all authorities to respond to my enquiries within 28 calendar days. The Council took on average 34.1 days to respond to my enquiries during the year but there are two observations to make about this. Firstly 34.1 days represents an improvement over the two previous years which saw average response times over 40 days. Secondly the average time masks the fact that in a number of cases the response of the Council was sent to me very speedily, on one occasion within 1 day and on another within 2 days. Responses to education complaints were sent within 12.3 days and I congratulate the Council for this given the importance and urgency of such complaints.

Some complaints, because of their complexity will require longer time by the Council as it formulates a reply. I am grateful to the Council for the efforts it clearly makes to reply to me in a timely fashion but I would ask for another push to try and get the average time closer to the 28 days I seek.

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.

We have extended the range of courses we provide and 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.

**Mrs A Seex
Local Government Ombudsman
Beverley House
17 Shipton Road
YORK
YO30 5FZ**

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.

**Mrs A Seex
Local Government Ombudsman
Beverley House
17 Shipton Road
YORK
YO30 5FZ**

June 2009

Appendix 1: 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	7	3	1	50	6	9	3	5	13	97
Advice given	0	2	5	24	1	7	3	1	12	55
Forwarded to investigative team (resubmitted prematures)	0	0	0	12	1	5	4	3	10	35
Forwarded to investigative team (new)	3	2	3	28	3	1	16	3	7	66
Total	10	7	9	114	11	22	26	12	42	253

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	29	0	0	39	23	12	103

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

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	54	34.1
2007 / 2008	71	42.3
2006 / 2007	60	40.6

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 Parks Authorities	100	0	0