

Local Government
OMBUDSMAN

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

Bromsgrove District 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 Bromsgrove District Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Bromsgrove District 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 22 enquiries and contacts relating to the council, compared with 27 complaints and enquiries in 2008/09. A total of seven of these were about planning and building control, four about public finance, three about housing, one about children and family services, one about benefits, one about transport and highways and five others, including areas such as elections and electoral register and drainage.

A total of 11 were passed to the investigative team (eight new complaints and three resubmitted premature complaints). We treated six complaints as premature and either referred them to the council or advised the complainant to make a complaint direct. In a further five cases we gave the complainant advice.

This compares with 27 complaints and enquiries in 2008/09, 16 of which were forwarded to the investigative team.

Complaint outcomes

We decided 20 complaints against the council during the year. In five cases we found no evidence of maladministration, and one complaint was outside my jurisdiction. In a further eight cases we exercised 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.

Reports

When we complete an investigation, we generally issue a report. This year we issued a report about the processing of a planning application. Numerous errors were found in the processing of the application, including the Planning Committee taking into account irrelevant factors, failing to consider officer advice and advice from Natural England, and failing to give adequate reasons for its decision to approve the application against officer recommendation. In addition, I criticised the council for failing to pass on a residents' petition objecting to the application. My predecessor recommended that the council pay the complainant £1,000 to compensate them for the time and trouble they had to go to in order to pursue the complaint, along with their understandable outrage that the application should have been handled better.

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 five were local settlements, representing 25% of complaints decided. I recommended that the council should pay a total of £2,350 in compensation in 2009/10. In this letter I shall deal with some of the more noteworthy examples.

Planning and building control

The majority of local settlements for your council this year concerned the processing of planning applications. In one case where the Planning Committee granted planning permission against officer advice, it failed to record its view on all the recommended reasons for refusal. It also failed to discuss how the development would impact on the complainant, which was one of the recommended reasons for refusal, and failed to appreciate that the ground floor windows of the development would overlook the complainant's property when it granted permission for the development. In addition, the council's policies indicated that development was only allowable in this location if special circumstances existed and the Planning Committee did not have any written evidence to support the arguments Members put forward. That was also in breach of policy, which requires the applicant to provide evidence of special circumstances. As a result, the complainant was left not knowing whether the outcome would have been different had the fault identified not occurred. They were also put to time and trouble in order to pursue their complaint. As remedy for that complaint the council agreed to pay the complainant £1,000 compensation and to remind Committee Members of the council's policy requirements in relation to special circumstances and the need to document its reasons when going against officer recommendation.

I identified similar concerns in another planning case, where Committee granted permission against officer recommendation without recording its view on two of the three recommended reasons for refusal, one of which was the impact on neighbouring properties. As a result the complainant suffered uncertainty about how the application had been considered and was put to time and trouble in order to pursue their complaint. In that case the council agreed to pay the complainant £500 compensation.

In another planning case I was concerned because the report to the Planning Committee failed to record the complainant's concerns about the effect the development would have on their amenity. As a result the complainant had a justifiable sense of outrage at feeling that the impact on them was not properly considered, along with the time and trouble they had to go to in order to pursue their complaint. As remedy the council agreed to pay the complainant £500 compensation.

Enforcement

In a case concerning enforcement of a condition on a planning permission the council delayed following up a breach of condition relating to obscure glazed windows. The council had also failed to address the neighbour consultation letter correctly on the original planning application, which meant that the complainant did not receive a letter or have an opportunity to comment on the planning application. The council agreed to pay the complainant's £350 compensation in that case.

Liaison with the Local Government Ombudsman

We made formal enquiries on seven complaints this year. In the annual review for 2009, my predecessor congratulated the council on its excellent performance in terms of response times to my enquiries. In 2009/10 the council took an average of 26 days to reply to my enquiries and although that is a slight dip from 2008/09 it is still well within the 28 day target I set for councils. I am pleased that the council has in recent years placed much greater emphasis on replying to my enquiries in a timely way and hope that it will maintain this high level of performance in 2010/11. In

January 2010 my Assistant Ombudsman and Senior Investigator visited the council to discuss last year's annual review with Members and provide some training on making sound planning decisions. He was able to report positively on relations between your council and this office.

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

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 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.

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

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	7	26.0
2008 / 2009	11	24.5
2007 / 2008	11	26.3

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

LGO Advice Team

Enquiries and complaints received	Children and family services	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	2	0	0	1	0	2	6
Advice given	0	0	0	3	1	0	1	5
Forwarded to investigative team (resubmitted prematures)	0	0	0	0	1	1	1	3
Forwarded to investigative team (new)	0	1	1	1	4	0	1	8
Total	1	3	1	4	7	1	5	22

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	5	0	0	5	8	1	20