

**The Local Government Ombudsman's
Annual Review
Maidstone 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 Maidstone Borough Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Maidstone 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

Last year, our Advice Team handled 49 enquiries about your Council. Of these enquiries, 10 related to complaints which we considered were premature, and we referred them to your Council for investigation. We gave advice to eight other enquirers on a variety of matters, including my jurisdiction. They passed 31 complaints to the investigative team. Planning and building control prompted by far the most significant numbers of enquiries and also accounted for the majority of the complaints forwarded to the investigative team.

Complaint outcomes

This year, I made decisions on 27 complaints against your Council. There were eight complaints in which I found no, or insufficient, evidence of fault by the Council to warrant further investigation. I used my discretion not to pursue investigations into 12 complaints, for example where the injustice to the complainant was not significant enough to warrant a remedy, or where the remedy which the Council had provided was adequate. Three complaints were outside my jurisdiction.

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 I decided against your authority, which were within my jurisdiction, four (16.6%) were local settlements. These settlements resulted in the Council making payments totalling £900. Of these payments, £300 arose from three complaints about planning and building control; £500 from a complaint about the Council's handling of concerns about antisocial behaviour; and £100 from a complaint about homelessness.

Complaints by service area

Planning and Building Control

We decided 17 complaints about Planning and Building Control. One complaint was outside my jurisdiction. In seven complaints, there was no, or insufficient, evidence of maladministration and, in seven others, I used my discretion not to pursue an investigation.

Five cases, where we found there was insufficient evidence of maladministration, related to backland where the Council had granted planning permission for residential development. The complainants claimed an interest in small areas of the land. While there appeared to have been fault by the highway authority, we concluded that the Borough Council had not been at fault in the way in which it had considered the planning issues. Many of the complainants' concerns raised issues of law, or private rights in law, which were not for us to determine.

I settled two complaints. In one, the Council considered two planning applications for extensions to the complainant's neighbour's home and the complainant's representations against the applications. The Council reached decisions on the merits of those matters without administrative fault, but its repetitious correspondence caused the complainant to expend avoidable time and trouble. The Council recognised this by paying £100.

In the second, the Council had consulted a resident about one version of a neighbour's proposed extension, but did not consult him about a slightly revised, later version. The Council took the neighbour's known views into account in granting permission in respect of the revised proposal, but did not take account of his views on the revised proposal. I concluded that the Council would have reached a similar conclusion if it had had the complainant's views on the later proposal. Nevertheless the Council paid the complainant £200 to recognise the frustration caused by its failure to consult him. The Council also agreed to take greater care in consulting neighbours about planning applications.

Antisocial behaviour

I settled one complaint about antisocial behaviour, arising from the complainant's concerns about the way in which the Council had handled a complaint about alleged antisocial behaviour by children. Our investigation suggested that there had been delay in the way in which it had investigated the original concerns, that the Council's contacts with the police had been unduly informal, and that a brief prepared within the Council had been influenced by material which turned out to have been inaccurate. After a meeting with senior officers, the Council agreed to apologise to the complainant, annotate its files to reflect the complainant's view, review its procedures for handling antisocial behaviour, and pay the complainant £500.

Housing

I settled one complaint about housing which related to homelessness. The Council provided misleading advice to a relative of a homeless person about the likely provision of accommodation. The Council's out of hours service had no record of its contact with the relative. The Council agreed to pay £100 and to review its procedure on the retention of records by the out of hours service.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries about complaints was 25.6 days. This is within the target (28 days) which we set for responding to our first written enquiries.

The Council's responses to our first enquiries are generally helpful. The Council manages its own complaints procedure well. It now makes particular efforts to ensure that complaints are advanced promptly from the first to the second stage without repetition and that any complainants dissatisfied after the second stage are clearly signposted to my office. Although, for the reasons I have already given, it is hard to make comparisons with last year's statistics, we appear to have received rather fewer complaints against your Council for investigation during 2008/09 than in the previous year. It appears that the Council's procedures have been successful in encouraging early resolution of complaints.

My officers have kept in regular contact with your Council's Head of Legal Services and my officers visit your Council's offices from time to time. We find these contacts helpful in resolving points at issue.

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.

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.

Tony Redmond
Local Government Ombudsman
10th Floor, Millbank Tower
Millbank
London SW1P 4QP

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.

Tony Redmond
Local Government Ombudsman
10th Floor, Millbank Tower
Millbank
London SW1P 4QP

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.