

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

Swindon 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 Swindon Borough Council 2009/10

Introduction

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

Enquiries and complaints received

During the year we dealt with a total of 68 enquiries and complaints for your council. For 2008/9 the figure was 69.

In the Annual Review for 2008/09 my predecessor noted the high number of cases referred back as premature – 26, of which 10 concerned housing matters. I am pleased to note the reduction in premature complaints for 2009/10 to 17, and that only one housing complaint was premature. This indicates significant improvement by the council in signposting citizens to its own complaints procedures. I congratulate you on this and hope the improvement can be maintained and even extended through other council departments.

Advice only was offered on 10 enquiries received by our advice team. The other 41 complaints were forwarded to the investigative team; six of them had previously been referred to the council as premature.

The enquiries and complaints received covered a wide range of council services. There were 10 on each of education, planning and building control and transport and highways. There were seven on each of housing and benefits and five on public finance including local taxation. Children and family services were the subject of four and adult care services the subject of two. The remaining 13 cases covered other council departments.

Of eight education complaints forwarded to the investigative team five concerned the admissions appeals for one school. Of seven planning complaints forwarded for investigation five concerned the same enforcement issue.

Complaint outcomes

Decisions were made on 38 complaints during the year. No evidence of maladministration was found on 10 of those complaints. My discretion not to pursue investigation was exercised on six complaints, typically because of insufficient evidence of injustice suffered by the complainant as a result of the matters complained of. Four complaints were about matters that 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 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 18 were closed following agreement on local settlements. This represents slightly over 50% of the decided complaints within jurisdiction.

The local settlements agreed covered a wide range of council services. In the settled complaints, which I describe below, the total amount of compensation agreed was £20,199.

Education

Four complaints about an education admission appeal were settled by the offer of a new appeal hearing with a new appeal panel. This was recommended after it was found that, contrary to the appeals code, the appeal panel had been given new information during the appeal hearing by a school representative so that appellants had not had a reasonable opportunity to consider it.

A complaint about provision of education for a child with a statement of special educational needs revealed delay in providing appropriate education and in considering specialist residential provision. The child, who had significant difficulties, was largely out of education from January 2006 to September 2008, which had an adverse impact on the child's education and behaviour and on his family. The council accepted our recommendation for compensation of £5,000 to be paid to the complainant and a further £3,000 to be held in trust at the child's residential school to be used to supplement his educational provision.

Planning

One complaint about planning advice was settled by the offer of compensation of £150 to reflect the cost of an unnecessary planning application after the council gave incomplete advice about its policies.

A complaint about enforcement action on unauthorised houses in multiple occupation revealed delay over a period of some years and a lack of liaison between the planning department and residential services. However we could not conclude that the outcome would have been significantly different for the complainant because after enforcement action was taken and planning applications had been refused by the council, the HMOs were authorised by the Planning Inspectorate on appeal. The council agreed to offer compensation of £750 to recognise the complainant's continuing uncertainty about whether more prompt action would have prevented the development of the HMOs and his time and trouble in pursuing the complaint.

Failures in the handling of a neighbour's planning application and flaws in the officers' report on a subsequent planning application followed by shortcomings in the council's consideration of the complaint led to a recommendation for compensation of £1,000, for the anxiety and distress they suffered and their time and trouble in pursuing the complaint, and funding of remedial work to the complainants' property.

Housing

On three complaints about housing repairs the council had, commendably, recognised faults and offered remedies during its own consideration of the complaint but the complainants remained dissatisfied. In one case we recommended compensation of £100 to reflect time and trouble in pursuing the complaint, as well as £200 already offered towards increased heating costs. In another we recommended an increase in the compensation offered from £200 to £350, to

recognise problems caused by flooding and faulty boiler, as well as damage to furniture during removals. In the third complaint we considered the offer by the council of £250 compensation for delay in resolving problems after a tenancy exchange, as well as clearing rent arrears of £275 had provided an appropriate remedy for the shortcomings identified.

I fully support the housing department's attempts to resolve complaints internally and my officers will be happy to assist with advice or guidance on remedies.

Housing Benefit

A complaint where the council had mistakenly made a payment to the complainants' tenant instead of to them was settled by the offer of compensation equivalent to the amount of benefit they should have received (£834) and £100 for time and trouble in pursuing the complaint.

Highways and Transport

An apology and compensation of £50 together with the offer of a 10% discount on a parking season ticket remedied a complaint about a failure to respond to an enquiry about parking season tickets.

An error in entering details into a computer system led to the incorrect issue of a parking ticket but when this was brought to the council's attention it failed to correct the information or send the promised apology and the complainant later received a demand for payment in full. This was remedied by the offer of compensation of £50 and confirmation that the complainant's licence plate had not been cloned.

A complaint about the handling of a road closure, and the necessary traffic order requested by a construction company, led to agreement by the council to reimburse the additional costs incurred by the company because of unnecessary and avoidable delay in proceeding with the road closure. A total of £5,615 was agreed.

Land

A community association complained about delay by the council in providing alternative premises after it had to vacate premises for redevelopment by the council. Our investigation found that the council had imposed an unreasonable deadline for a response, had failed to inform the community association that it was no longer considering alternative premises and had failed to ensure proper accounting for property removed from the premises. The council agreed to offer an apology for the way the matter had been handled, a meeting with senior officers to discuss the future for the community association and compensation of £1,000. The letter sent by the council to the community association to confirm this settlement was comprehensive and well articulated.

Adult Social Care

Repeated avoidable errors in billing for home care services for the complainant's elderly relative caused him significant time and trouble in resolving the problem. The council agreed to offer compensation of £500.

Compensation of £250 was offered to a complainant after the council wrongly circulated information saying that the complainant had been convicted for assaulting a police officer. The council also clarified for all recipients of the original letter that the complainant did not have a conviction for assaulting a police officer.

Children and Family Services

A serious and substantial complaint about the way the council dealt with foster care for the complainants' grandchildren had been largely settled during the council's own consideration of the complaint. This included an independent review of the fostering arrangements for the children which led to subsequent agreement that the children be placed with them. The council had also agreed to undertake a review of procedures for arrangements for contact between foster children and families. We recommended the offer of compensation of £1,000 to reflect the distress caused to the complainants and their grandchildren during the 10 months that contact between them had been suspended.

Liaison with the Local Government Ombudsman

We made formal enquiries on 19 complaints during the year. The average response time was 34.1 days. In the annual review for 2009, my predecessor congratulated the council on its efforts to improve the council's response times to my enquiries. It is disappointing therefore to note that this year's average is significantly higher than last year and well outside the target of 28 days. However, the increased average is largely accounted for by three cases, one on Adult Social Care (75 days) and two on Children and Family Services (70 days and 113 days). Without these cases the average would have been a creditable 24.5 days. I do recognise that complaints involving social services can often be extremely complex and sensitive and that time-consuming preparation of responses to enquiries, in the context of the burden of other work, is difficult. However, I do hope that efforts will be made to improve on this for the future. My Assistant Ombudsmen in the newly established Adult Social Care and Children and Education investigative teams will be happy to discuss any ways in which we can assist with this process.

Your officers continue to be helpful and efficient in dealing with our enquiries. And have shown a generally positive approach to dealing with recommendations for settlements, which we value.

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 practice 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 am happy to note the efforts the council continues to make to improve its complaints handling procedures and positive approach to resolving complaints.

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 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.

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

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	1	1	2	1	3	3	2	1	3	17
Advice given	0	2	0	2	0	1	1	3	1	10
Forwarded to investigative team (resubmitted prematures)	0	0	0	0	0	1	0	1	4	6
Forwarded to investigative team (new)	1	1	8	4	4	0	7	5	5	35
Total	2	4	10	7	7	5	10	10	13	68

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	18	0	0	10	6	4	38

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	19	34.1
2008 / 2009	21	27.8
2007 / 2008	25	33.6

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