

**The Local Government Ombudsman's
Annual Review
Bracknell Forest 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 Bracknell Forest Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Bracknell Forest 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 on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

A total of 26 enquiries and complaints was received about your Council in 2008/09. Planning and building control generated the most contacts; there were six in total of which five were passed for investigation. There were five contacts about adult care services of which three were forwarded for investigation. And there were also five contacts about housing but only one of these was passed for investigation. Five other complaints were forwarded for investigation; these concerned children and family services, school admissions, parking and miscellaneous other issues.

Complaint outcomes

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, the council has agreed to take some action which we consider is a satisfactory response to the complaint. This can include such things as reconsideration of a decision, repairs carried out, policies reviewed, benefit paid, an apology or other action. In addition I may ask the council to pay compensation. This year I agreed seven local settlements with your Council and asked you to pay over £2,000 in compensation.

In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority 46.7% were closed as a local settlement.

Of the seven local settlements, one was about planning, one was about environmental health, one on trees, two concerned adult care services, and there was one about housing repairs and one about funeral arrangements.

Planning, environmental health and trees

There was a complaint, covering aspects of planning and environmental health, that the Council had taken inadequate action after complaints were lodged about problems associated with a nearby construction site; the complainants suffered from noise, vibration and dirt from the site. Complaints were made to the Environmental Health department but, in the complainant's view, the Council failed to take action. On the whole I felt the Council took reasonable action in relation to the complaints. Environmental Health officers visited on a number of occasions and when they witnessed a statutory nuisance, they served abatement notices. However, the Council could not account for a period of several weeks before the involvement of environmental health when the contractors were aware of the complainant's allegations and the matters was being dealt with by planning officers. So the Council agreed to pay compensation of £100.

In another complaint, I found fault in the way that a planning application for a block of flats had been determined. The Council had failed to notice that the location plan was inaccurate and it had failed to identify that the complainant's property on the plans was wrong in terms of its size, shape and position. A site visit had been done but there was no record made of the visit or the findings. The Council also agreed to vary a condition, but the change should have been treated as an amendment for which another application was needed. Because the applicant was not required to submit a further application, the complainant lost out on his opportunity to object. After visiting the site I decided that even if the mistakes with the plans and the application had not been made, it is likely that planning permission would still have been approved. However, I found that the complainant had been put to a considerable amount of time and trouble and he was left with an understandable sense of outrage. The Council had already agreed to pay £500 in compensation but it agreed to increase this to £1,000 in order to settle the complaint. The Council also agreed to review what had happened in this case and highlight what had gone wrong to other officers.

In the third local settlement involving trees, the Council had, by mistake, allowed a developer to fell 24 trees, many of which were protected by a Tree Preservation Order. The complainant's house adjoined the area where the trees had been felled. He was not only distressed by the loss of the trees but also by the loss of screening which the trees gave to his home. The Council had already admitted that mistakes had been made; a Notice requiring that some trees be felled was poorly worded which led the developer to think that all the trees needed to be removed. The Council had asked the developer to plant some new trees and allow others to re-grow; it also agreed to review its procedures to try to prevent similar problems from happening again. The Council also agreed to my request to pay £250 in recognition of the time and trouble the complainant had been put to in pursuing this matter and because he would have to spend money buying alternative screening. The Council also agreed to ask the developer to liaise with the complainant over what type of trees should be planted.

Adult care services

A complaint about the standard of care which had been provided to the complainant's father and about the circumstances of his death and the delay in notifying the complainant, the named next of kin, about his death, had been considered through the statutory complaints procedure. Some, but not all of the complaints had been upheld; the Council had offered compensation of £250 and agreed to implement some procedural improvements. The complainant contacted my office

because she thought all her complaints should be upheld. I was unable to share her view about this but I did think the complainant should be compensated for the delay in telling her about her father's death because this caused her considerable distress. The Council agreed to increase the compensation to £500 and issue an apology specifically for this element of the complaint.

In another complaint about adult care services the complainant had again completed the statutory social services procedure and seven of her 12 heads of complaint had been upheld. The complaint concerned the amount of support that had been provided to her son who had learning disabilities. There were several elements to the complaint including an allegation that there had been delays in completing a carers' assessment, delays in deciding who should provide support for her son, and inaccurate file notes. Although over half of the complaints had been upheld, the review panel had not offered any compensation although it had been agreed that some of the file notes would be amended. It was a difficult complaint to consider because a number of the events that were being complained about happened a very long time ago. I was unable to agree that all of the heads of complaints should be upheld but I did think it would be appropriate for the Council to pay some compensation in respect of those elements which had been upheld. The Council was initially reluctant to pay compensation: it did not share my view about injustice and it argued that the events had occurred some years ago when the Council's procedures were very different. However, after a meeting with my officers it agreed to pay compensation of £500.

Housing

A complaint was received concerning a charge made to a tenant for damage which was caused to the flat below after she had allowed her bath to overflow in 2005. The complainant disputed the charge and suggested that the overflow pipe was blocked. The Council inspected the pipe but failed to notify her that it still felt she was responsible for the damage and should be charged. The tenant heard nothing more for three years and assumed that the charge had been cancelled. But, when she applied for a transfer in 2008 she found out that she was still liable. I was unable to say that the Council's decision to charge her for the work was unreasonable; but I did decide that the Council should have confirmed she was still liable for the cost after it inspected the overflow. The Council agreed to reduce the bill by £50.

Other

One complaint concerned the administration of funeral costs when the Council took responsibility for arranging the funeral of the complainant's late mother. The Council had correctly checked that the daughter wanted it to arrange the funeral but it failed to make it clear that she would be responsible for the costs and it failed to get her written consent that she wanted the Council to make the arrangements. I took the view that the Council had failed to follow its policy but I also thought that the daughter should have taken steps to establish the costs in advance. For this reason I agreed with the Council that it would recover only half the costs from the complainant. The Council also agreed to hold a meeting with the complainant, to apologise, and to make arrangements for her to pay the costs by instalments.

Ombudsman's discretion

Sometimes though the Council may be at fault I use my discretion not to pursue the investigation; often because any fault did not result in any injustice to the complainant. But there still may be lessons for the Council to draw from such cases. This year I closed five cases using my discretion.

One of these cases concerned a complaint about a children's home which was not run by the Council but the Council used it to provide services and care. The complainant made a complaint to the home which it initially refused to investigate. The Council persuaded the home to appoint an independent investigator who investigated and upheld the complaint. However, the home refused to send the complainant a copy of the report. I decided I should not investigate the complaint because complaints about a failure to release information should be made to the Information Commissioner. However, I was concerned that the Council may have no arrangements for the investigation of complaints against third parties who provide services on behalf of the Council. I recommended that the Council consider the findings of my special report on *Partnership working and citizen redress* and I recommended that the Council review its complaint arrangements with all third parties.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was just over 22 days, which continues the improvement over the last three years. In general, the liaison arrangements between our offices appear to be working well.

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 note your authority has not yet taken advantage of our training in good/effective complaint handling so 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.

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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.

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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	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	0	0	3	1	1	0	2	7
Advice given	2	0	1	2	0	0	1	0	6
Forwarded to investigative team (resubmitted prematures)	0	0	0	0	0	3	0	0	3
Forwarded to investigative team (new)	3	1	1	1	0	2	1	2	11
Total	5	1	2	6	1	6	2	4	27

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	7	0	0	3	5	0	15

Average local authority response 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	12	22.2
2007 / 2008	7	24.6
2006 / 2007	14	32.9

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 park authorities	100	0	0