

Report of the Assistant Director Corporate Services (City Solicitor) to the meeting of the Standards Committee to be held on 10 September 2009

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**Subject: LOCAL GOVERNMENT OMBUDSMAN'S ANNUAL REVIEW 2008/9**

**Summary statement:**

**The Local Government Ombudsman's Annual Review is presented to Members for their consideration.**

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Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



## 1 **Summary**

- 1.1 The Local Government Ombudsman's Annual Review for 2008/9 has been issued. This report is to provide an overview of the information contained in the Review.

## 2 **Background**

- 2.1 The Local Government Ombudsman (LGO) has issued an Annual Review to all councils. The aim of the Review is to provide councils with information to help them improve complaint handling and services generally. A copy of the Annual Review for Bradford is attached at Appendix A.
- 2.2 The Annual Review replaces the Annual Letter which was previously issued to councils.
- 2.3 The Review is divided into two sections. The first is about complaints against the Council; this includes comments and statistical information in relation to complaints and enquiries received by the Ombudsman against the Council and the decisions made. Comments are also included on the effectiveness of the liaison arrangements between the Council and the Ombudsman's office. The second section provides a general update on LGO developments.
- 2.4 Drafts of the Reviews were first sent to councils giving the opportunity for them to draw attention to any inaccuracies and lists were provided showing which cases were covered by each of the data sets: complaints forwarded to the investigative team, outcomes and response times. The Annual Reviews for all councils have been posted on the Ombudsman's website and the Review for Bradford has also been posted on the Council's website.

### **Analysis of complaints**

- 2.5 Due to changes in the way in which the Ombudsman's Office operates, it is not possible to make a direct comparison between the statistics provided about complaints received in 2008/09 with those from previous years.
- 2.6 The number of enquiries and complaints about the Council in 2008/09 totalled 103. Of these, the LGO Advice Team gave advice in 16 cases and a further 25 complaints were judged to be premature (these are complaints which have not first been considered under the Council's own complaints procedure).
- 2.7 62 of the complaints received by the Ombudsman during the year were forwarded to the Investigative Team for further consideration. Of these, seven were complaints which were initially determined as being premature but were re-submitted to the Ombudsman as the complainants were dissatisfied with the way in which the Council had dealt with their complaints, the remaining 55 were new complaints. The subject area for which the greatest number of complaints was received was education. Complaints about education admission appeals account for almost all of these. There were, however, no findings of maladministration in respect of any of these complaints. It should be noted that there has been a 50% increase nationally in the number of complaints about education admission appeals.

- 2.8 72 complaints were determined by the Ombudsman during the year. This figure differs from the number of complaints received because of work in hand at the beginning of the year. Of these 72 complaints, 14 were outside the Ombudsman's jurisdiction and in 13 cases discretion was exercised by the Ombudsman not to pursue the matter. No evidence of maladministration was found in 35 cases and nine complaints were settled locally by the Council.
- 2.9 One formal report was issued against the Council. This concerned a planning matter and the finding was that there had been maladministration which had caused injustice. The complaint related to the way in which the Council had allowed a low level psychiatric facility to be developed. The Ombudsman found that the Council had not properly addressed the concerns expressed by local residents about safety and security when considering the application. In order to remedy the injustice caused, the Ombudsman asked the Council to pay compensation of £500 to the Complainant and to explore the possibilities of assisting, in planning terms, those who operate the facility to deal with the issue of absconding. The Council agreed to implement the recommendations and the Ombudsman comments that the Council's response was commendably positive.

### **Liaison with the Local Government Ombudsman and response times**

- 2.10 The Ombudsman comments that she remains very happy with the working relationship between her staff and those Council officers who routinely handle enquiries from her Office.
- 2.11 The Council provided responses to enquiries from the Ombudsman on 36 complaints during the year. This compares with 41 in the previous year. The average time taken to respond in 2008/9 was 19.8 days compared with 30.9 days in 2007/8. Replies are requested within 28 days (except for complaints about school admission appeals which are requested within 14 days due to the urgency which attaches to these). The Ombudsman comments that the quality of the responses remains consistently high and to respond so quickly reflects very well on the Council.

### **LGO developments**

- 2.12 An update of current and proposed developments in the way in which the Ombudsman operates is included in Section 2 of the Annual Review. The most significant change is that, from 1 April 2009, the Ombudsman has only considered complaints where the Council's own complaints procedure has been exhausted. There are a number of exceptions to this, for example where the matter is urgent or the complainant is vulnerable.

## **3. Legal appraisal**

- 3.1 Article 11.9.2 of the Council's Constitution places the overview of complaints handling and Ombudsman investigations within the remit of the Standards Committee. It is appropriate that the Committee considers the Ombudsman's Annual Review for 2008/9. The Committee has previously considered the Annual Letter from the Ombudsman.

#### **4. Other implications**

- 4.1 There are no equal rights, sustainability, community safety, Human Rights Act, trade union, financial or resource implications arising from this report.

#### **5. Not for publication documents**

- 5.1 None

#### **6. Recommendation**

- 6.1 That the contents of the Annual Review be noted.

#### **7. Reason for recommendation**

- 7.1 By considering the Annual Review the Standards Committee will be made aware of the number and nature of complaints against the Council which the Ombudsman has dealt with over the past year and their outcomes.

#### **8. Appendices**

Appendix A Local Government Ombudsman's Annual Review for 2008/9

The Annual Review for the Council, together with those for all other councils, can be viewed on the Ombudsman's website at [www.lgo.org.uk](http://www.lgo.org.uk).

#### **9. Background documents**

Local Government Ombudsman's Annual Review for 2008/9

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

**City of Bradford Metropolitan  
District 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 City of Bradford Metropolitan District Council 2008/09

## Introduction

This annual review provides a summary of the complaints we have dealt with about Bradford Metropolitan District 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.

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 number of enquiries and complaints about the Council received this year totalled 103. Our Advice Team gave advice in 16 cases and a further 25 complaints were judged to be premature. In these cases we either asked the Council directly to address the complaint or we advised the complainant to make a formal complaint to the Council. My office received 62 new complaints during the year. Of these, seven were complaints initially determined by our Advice Team as premature but re-submitted to me by complainants dissatisfied with the way in which the Council had dealt with their complaint. The remaining 55 complaints were new complaints.

The Council will wish to know that the subject areas of the complaints received by me during the year break down as follows.

Adult Social Care	2
Benefits	3
Children and Family Services	3
Education	23
Planning and Building Control	16
Public Finance	3
Transport and Highways	4
Other	8

## **Complaint outcomes**

I determined 72 complaints against the Council during the year a figure which differs from the number of complaints received because of work in hand at the beginning of the year. Of these 72 complaints, 14 were outside of my jurisdiction while in 13 cases I exercised my general discretion not to pursue the matter. I found no evidence of maladministration by the Council in 35 cases. I comment on the remaining cases below.

### **Local settlements and reports**

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. Of the complaints I decided against your authority during the year the Council agreed to settle nine and I give the Council full credit for its willingness generally to settle complaints when asked to do so. This amounts to 12.5% of the number of decisions made against the Council during the year but I draw no adverse inference from a figure less than half of the national figure.

When we complete an investigation, we generally issue a report. This year I issued one report against the Council about a planning matter and I refer to this in more detail below.

### **Complaints by service area**

#### ***Education***

I decided 24 complaints about education matters. Of these complaints, 20 concerned education admission appeals. The Council, accepting that the Appeal Panel had not properly considered the appeal, offered to settle one of these complaints by offering the complainant a place at the school of their choice and I was grateful to the Council for the speed of its response in this case. I found no evidence of maladministration by the Council in 18 of the remaining education admission appeal complaints. I closed one complaint on the basis that it was outside of my jurisdiction while the final case was closed exercising the general discretion available to me not to pursue a complaint.

The remaining education complaints concerned school transport matters, special educational needs, a complaint from someone disappointed not to have been appointed as a school governor and a complaint about the way in which the Council had dealt with the exclusion of a pupil from a school. I found no evidence of maladministration by the Council in any of these cases.

#### ***Planning and Building Control***

I determined 16 complaints in this category during the year. One complaint concerned building control [closed without investigation at my discretion] while four concerned enforcement matters. Two of these complaints were outside of my jurisdiction, one was closed at my discretion while I found no evidence of maladministration by the Council in the final complaint.

The remaining 11 complaints all concerned the way in which the Council had considered planning applications. I found two of these complaints to be outside of my jurisdiction and exercised the discretion available to me not to pursue two further complaints. I found no evidence of maladministration by the Council in four cases. The Council agreed to settle two complaints in this category.

In both of these cases the Council agreed to pay compensation respectively of £250.00 and £200.00 accepting in one case that it gave misleading advice and in both cases to have failed adequately to have considered the impact of development upon the residential amenity of the complainants. In neither case did I feel that the decision to approve the planning applications in question was wrong or would have been different but for the maladministration of the Council.



I issued one report during the year and this concerned the way in which the Council allowed a low level psychiatric facility to be developed in the neighbourhood of the complainant. I found that the Council had not properly addressed the concerns expressed by residents about safety and security when considering the application. I asked the Council to pay compensation to the complainant of £500.00 but more importantly for the Council to explore the possibilities of assisting those who operate the psychiatric facility to deal with the issue of absconding which has caused upset locally. The response of the Council to my report was commendably positive. The compensation was paid to the complainant very quickly and was accompanied by a sincere apology. The Council agreed to my recommendation that it meet with the management of the psychiatric unit and, at the time of writing this letter, agreed to let me know of the outcome of that meeting when it eventually took place.

### ***Transport and Highways***

This category made up the third largest group of complaints about which I made decisions last year. I made six decisions in total of which three were determined on the basis of no maladministration by the Council, one was outside of my jurisdiction and one was closed exercising my general discretion not to pursue a complaint. The Council agreed to settle the remaining complaint which concerned a parking ticket following the issue of which the Council failed to respond to a letter from the complainant disputing the ticket. The result of this was that the complainant lost the chance to appeal but the Council, to its credit, apologised for its error and refunded the parking fine.

### ***Social Services – Adult Social Care and Children and Family Services***

I determined five complaints in these two categories, two in adult social care and three in children and family services. I found no evidence of maladministration in three cases while two were outside of my jurisdiction.

### ***Benefits***

I considered one complaint about a council tax benefit matter during the year and this was a complaint the Council agreed to settle. This complaint concerned delay by the Council in dealing with correspondence following the death of the complainant's father. The response of the Council to my enquiries was very detailed and very positive and the Council offered to pay £50.00 in compensation which I regarded as a good settlement reflecting well upon the Council.

The other three complaints in this category all concerned housing benefit. I was critical of the Council in none of these cases.

### ***Housing***

I determined two complaints relating to housing matters during the year. I decided not to pursue one of these cases but the Council agreed to settle the other complaint which concerned a private housing grant matter. This complaint was a complex matter made more complicated because I initially decided not to pursue the matter but was later persuaded by the complainant that I should. I apologised to the Council for this at the time recognising that I was asking the Council to undertake a great deal more work in response to a complaint it thought it had dealt with. However I felt that the complainant had not been treated fairly by the Council because he had not been given clear advice about his application for a grant to bring his home up to a decent standard. I was pleased when the Council finally accepted this and agreed to provide a remedy for the complainant.

## **Others**

The remaining complaints fall into the miscellaneous category as no other single subject area raised significant numbers of complaints. There were three further local settlements. One concerned a damaged headstone in one of the Council's cemeteries [the Council agreed to repair the damage and had made the offer even before the complaint reached me], one concerned a complaint about land [again the Council had responded positively to the complainant before he approached me] and the final case concerned the failure of the Council to provide a copy of a letter and to arrange a meeting concerning a child protection enquiry. In this case the Council very speedily provided a copy of the letter as required and arranged the meeting sought.

## **Liaison with the Local Government Ombudsman**

I remain very happy with the working relationship between my investigative and administrative staff and those officers of the Council who routinely handle enquiries from my office. I ask for responses from all authorities to reach my office within 28 calendar days and I am very pleased to note that the Council took on average just 19.8 days to reply to my enquiries in the last year. The quality of the responses sent to me by the Council remains consistently high but to respond so quickly reflects very well on the Council and I am grateful to the Council for its co-operation in this regard.

## **Training in complaint handling**

The Council has, in the past, asked for and received training from us but I would 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.

In previous years we have provided training in Good/Effective Complaint Handling to staff from your authority. 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  
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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	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	2	0	1	1	2	9	2	7	25
Advice given	1	1	4	0	2	2	1	2	3	16
Forwarded to investigative team (resubmitted prematures)	0	1	0	0	2	0	2	0	2	7
Forwarded to investigative team (new)	2	2	23	0	1	3	14	4	6	55
<b>Total</b>	<b>4</b>	<b>6</b>	<b>27</b>	<b>1</b>	<b>6</b>	<b>7</b>	<b>26</b>	<b>8</b>	<b>18</b>	<b>103</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	1	9	0	0	35	13	14	72

**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	36	19.8
2007 / 2008	41	30.9
2006 / 2007	35	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