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Local Government  
**OMBUDSMAN**

**The Local Government Ombudsman's  
Annual Review  
Brighton & Hove City 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 Brighton & Hove City Council 2009/10**

### **Introduction**

This annual review provides a summary of the complaints we have dealt with about Brighton & Hove City 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**

We received 99 enquiries and complaints about the Council during the year. This is a reduction of around a third since last year. We sent 21 complaints to the Council to be dealt with under its complaints procedure. And in 12 cases we gave advice to the enquirer. The remaining 66 complaints were passed to our investigation team.

Thirteen of the cases passed for investigation were about housing, including housing allocations, homelessness, repairs and tenancy management. Of the 10 education complaints passed for investigation, eight were about school admissions and two were about special educational needs. Most categories of complaint saw a reduction compared with last year, but notable exceptions were those about adult care services, local taxation and waste management.

### **Complaint outcomes**

During the year we decided 67 complaints and in almost half of them we decided there was no or insufficient evidence of maladministration. In 10 cases we exercised discretion not to continue the investigation, in most cases because we felt the injustice was insufficient. Seven complaints fell outside our jurisdiction.

### **Reports**

When we complete an investigation, we generally issue a report. This year I issued one report on a complaint where the Council had taken bankruptcy proceedings to recover council tax arrears against a person with mental health issues. The Council's procedures required special consideration to be given to cases involving vulnerable people but at the time did not require any check to be made with adult care services. Checks are now made and if one had been made in this case the Council would have found that the complainant was known to its adult care service. If that had happened, it is possible that the bankruptcy action would not have proceeded but I could not be certain about that. So there was maladministration by the Council which caused an injustice to the complainant in terms of uncertainty as to whether the outcome might have been different. I recommended that the Council should pay the complainant compensation of £250 and to apologise for the failure in the procedure. The Council agreed to implement my recommendations.

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### **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. For your Council 28.3% of the complaints within jurisdiction that we decided were local settlements.

### ***Adult care services***

Three complaints about adult care services resulted in local settlements. In one, the Council apologised and acknowledged it should have been more proactive in involving a disabled person's parents in a safeguarding investigation. Two other cases related to issues with co-operation and communication between the Council and local NHS trusts when implementing care arrangements. The problems were largely historical and procedural changes had been made to improve co-operation between the bodies, but the Council agreed to apologise for past problems. It implemented further steps to improve the care arrangements in one case and paid £250 compensation in that case and £200 in the other.

### ***Housing***

There were also three local settlements on complaints about housing. In the first, a new member of staff had failed to recognise the need for a homelessness assessment but the Council swiftly agreed to carry out a reassessment and reviewed the supervision arrangements for new staff. It paid £100 compensation and was able to provide accommodation to the complainant during the course of the investigation. In the second, the Council accepted there had been delay in arranging for the removal of asbestos from the complainant's home and agreed to increase its offer of compensation to £200. And in the third, the Council delayed in referring an insurance claim to the contractors who had installed a shower and so it agreed to pay £100 compensation.

### ***Public finance including local taxation***

Two complaints about council tax resulted in local settlements. In one, the Council agreed to credit the complainant's council tax account with a sum to remedy the injustice caused by its failure to allow him more time to rectify a bank error which had cancelled a standing order. In the other case the Council had issued a refund to the complainant's ex partner despite saying it would not do this without both parties' consent. The Council responded very quickly to this investigation and agreed to pay £200 compensation.

### ***Planning and building control***

The Council agreed to settle one complaint about a lack of information about a summer sports event by paying £50 compensation for the complainant's time and trouble in making the complaint. The Council had not properly responded to the complainant's concerns and it was only in response to our enquiries that it provided an adequate explanation and gave assurances that there would in future be discussions with planning and noise teams for events like this.

### ***Transport and highways***

Two complaints resulted in local settlements. One happened very swiftly when the Council agreed to reconsider an application for a parking permit that had been incorrectly completed by the complainant's GP. In the other case the Council's response to a complaint about parking problems had been unnecessarily delayed and I felt that although the eventual response was reasonable, the Council should pay £50 compensation for the delay.

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### **Waste management**

There were six local settlements of complaints about waste collection. In two complaints the service department took over 10 weeks to reply to our enquiries and although the substantive response to these complaints was reasonable the Council agreed to pay £75 for the unreasonable delay one complainant had experienced while pursuing the complaint.

Another complaint was settled by the Council's contractors agreeing a plan for enforcement action to address bins being left in the street. One complaint was settled by the Council agreeing to move a communal refuse bin to a more convenient location and another by the Council repairing communal bins. The remaining complaint was settled by the Council apologising for the delay in providing recycling facilities and providing a reasonable explanation for the delay.

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

My investigators have commented on very prompt responses to some enquiries and local settlement proposals but it has taken much longer to obtain information relating to some complaints about waste collection. One of my investigators discussed this with the link officer and I understand that the contractor has drawn up a plan to improve complaint handling. I hope this will result in improvements and a swifter response to our enquiries in the future. These delays appear to be the reason why the Council took an average of 32.3 days to reply to our enquiries in the 46 cases where we made written enquiries. This is higher than the figure for last year when the average response time was 28 days, in accordance with the target timescale we set.

Officers from the Council attended our training event for link officers in May 2009 and workshops on the new adult care services complaints procedure which we held in July 2009 and March this year. I hope they found these events useful and informative.

### **Training in complaint handling**

I would like to take this opportunity to remind the Council that part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

### **Conclusions**

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your authority's services.

**Tony Redmond  
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SW1P 4QP**

**June 2010**

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## 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/](http://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](http://www.lgo.org.uk/guide-for-advisers/council-response)

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### **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.

**Tony Redmond**  
**Local Government Ombudsman**  
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**June 2010**

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## Appendix 1: Notes to assist interpretation of the statistics 2009/10

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### 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.



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**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	0	9	1	1	1	5	4	23
Advice given	0	1	0	1	0	1	1	3	5	12
Forwarded to investigative team (resubmitted premature)	3	0	0	3	2	2	3	0	2	15
Forwarded to investigative team (new)	5	0	10	10	2	5	3	7	9	51
<b>Total</b>	<b>9</b>	<b>2</b>	<b>10</b>	<b>23</b>	<b>5</b>	<b>9</b>	<b>8</b>	<b>15</b>	<b>20</b>	<b>101</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
	2009 / 2010	1	17	0	0	32	10	7

## Appendix 2: Local Authority Report - Brighton & Hove City

For the period ending - 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	46	32.3
2008 / 2009	42	28.0
2007 / 2008	42	28.7

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

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

