

Local Government Ombudsman (LGO) Fact Sheet

This fact sheet has been put together to assist Managers when dealing with complaints, the LGO website (link) also has lots of comprehensive information available, this fact sheet covers the key information you are likely to need.

1.0 The role of the LGO

The LGO has been operational for forty years and is an independent body appointed to investigate complaints about Councils (and other organisations / bodies) The LGO will investigate complaints about most council matters.

2.0 Key Facts about the Ombudsman

- The LGO is committed to providing a fair service and spending public money effectively
- The LGO does not have to investigate every complaint received even if they have the power to do so such as in cases where it is felt the problem has not affected the complainant significantly
- Complaints are examined without taking sides, the LGO are not consumer champions
- Investigations are private
- The LGO is appointed by Her Majesty the Queen
- Findings are published but people are not identified in the published information
- The LGO has the same powers as the High Court to obtain information and documents
- The LGO does not charge for using this service
- LGO decisions are final and cannot be appealed, they can be challenged in the High Court if it is believed the reasoning has a legal flaw
- The LGO can make recommendations about how a fault can be put right, although this cannot be enforced there is almost always a willingness to act upon the recommendations.
- Decisions are made independently of all government departments and bodies investigated

If the LGO find that the Council has done something wrong which has caused a significant injustice, they aim to get the Council to put it right. The LGO can investigate complaints about how a body has done something or failed to do something, but cannot question what a body has done just because a person does not agree with it.

Complainants should, firstly give the Council an opportunity to deal with it through its own complaints procedure. If the complainant is not satisfied with the Councils response, then a complaint can be taken to the LGO.

3.0 The Process followed by the LGO

The LGO is split into three business sections that deal directly with complainants and their complaints, the sections are as follows:

Business Section	Role of the Team
The Intake Team	First point of contact for a complainant and will often refer complaints back to the Council to allow time for a local resolution of a complaint
The Assessment Teams	Carry out an initial assessment of complaint and consider whether it could and should be investigated
The Investigation Teams	Carry out the detailed investigation into complaints

Further information on the process followed by each team is detailed below:

Team / Stage	Process Followed
	<ul style="list-style-type: none"> • Upon receipt of a complaint it will usually be acknowledged within 5 working days explaining what will happen next • The LGO will contact the Council to find out if the complaint has already gone through our own complaints process • If it hasn't the complainant will be advised to complain directly to the Council.
	<ul style="list-style-type: none"> • If the complaint has gone through our process the complaint will be allocated to an investigator in one of four assessment teams to do an initial assessment to determine if the complain will be investigated or not.
	<ul style="list-style-type: none"> • If there is not already enough information provided the assessment investigator may contact the complainant to discuss the complaint and find out what the complainant is seeking as an outcome. • The Investigator will decide whether or not to investigate the complaint, if the law does not allow it or if they decide that the injustice is only slight then the decision will be made not to investigate and the complainant informed within 20 working days from receipt of the complaint. • The LGO must inform us of any complaints they receive whether they decide to investigate or not.
	<ul style="list-style-type: none"> • In deciding whether to investigate a complaint or not the principles of four tests will be applied as set out in Appendix A • In some cases consideration will be given to the combined impact of four tests, in other cases the significance of one test may be enough to determine appropriate action

<p>The Investigation Team Stage</p>	<ul style="list-style-type: none"> • If after the initial assessment a decision is made to carry out and investigation then the complaint will be allocated to a named investigator • The LGO will then gather as much information as possible about the complaint and will ask to see any information we hold in relation to the case. • Copies of any information supplied will usually be given to the complainant, excluding any information that may be about other people. • When the LGO has gathered sufficient information to make a decision they will write to the complainant advising of likely outcome and giving the complainant the opportunity to comment or provide any further information relevant to the case by a specific date. • Once the final decision has been the LGO will write to the complainant with the outcome and a copy of the decision statement will be sent to us.
	<ul style="list-style-type: none"> • Approximately 50% of cases take three months to reach a decision, more complex cases can take longer sometimes up to a year, however the LGO will provide regular updates in such cases. • An annual statement of decisions is produced and sent to each Council which is also made available on the LGOs website.

4.0 Decision Reasons

The table below shows the decision reasons which changed on 01st April 2014.

Decision reasons April 2013	New Decision reasons from 01 April 2014
Not in jurisdiction (OJ) and no discretion	
Not in jurisdiction (OJ) and discretion not exercised	
Not investigated	Closed after initial enquiries – no further action
To discontinue Investigation	Not upheld – No further action
	Upheld: Maladministration and Injustice
	Upheld: Maladministration, No Injustice
	Not Upheld: No Maladministration
	Report issued: Upheld; maladministration and injustice
	Report issued: Upheld; maladministration, No injustice
	Report issued: Not upheld; no maladministration

APPENDIX A

1) The Injustice Test

Assesses the level of personal injustice the complainant claims to have been caused

The Injustice test is the most important factor in our assessment decision.

We will not normally investigate a complaint unless there is good reason to believe that the complainant has suffered significant personal injustice as a direct result of the actions or inactions of the service provider.

This means that we will normally only investigate a complaint where:

- the complainant has suffered serious loss, harm, or distress as a direct result of faults or failures by the service provider, or
- there are continuous and ongoing instances of a lower level injustice that remain unresolved over a long period of time.

We will not normally investigate a complaint where:

- The alleged loss or injustice is not a serious or significant matter.
- Where the complainant is using their enquiry as a way of raising a wider political or community campaign. In these cases their concerns may be better addressed to their local councillor rather than the Ombudsman.
- Where the complainant is not the person primarily affected and is complaining about a secondary impact on them, rather than acting on behalf of the person directly affected.
- Where the complainant has suffered significant personal injustice, distress and loss, but those events cannot be shown to be directly the result of the actions or omissions of the service provider.

2) The Fault Test

Assesses the scale and nature of the fault and whether it is directly linked to the injustice claimed

Fault is a broad concept and covers a wide range of action or inaction by a public body or a care provider.

We will be more likely to investigate a complaint where:

- The type and scale of the fault amounts to a particularly serious failure to meet normally expected standards of public service.
- There is ongoing systemic failure in a service provider's policies or procedures where our intervention may result in a wider public benefit.
- The service provider is directly responsible for the action that has caused the alleged fault.

We will be less likely to investigate a complaint where:

- There is not enough evidence of fault.
- The complaint is simply an expression of discontent about an unpopular or contentious decision which has been made without fault.
- It would be more appropriate for another body to consider the complaint. For example, an allegation of repeated failures in care standards in a residential care home could be referred to the Care Quality Commission.
- The link between the claimed injustice and the actions or omissions of the body complained about is weak or unclear.
- The service provider only has a secondary role in the relationship between the complainant and another party, such as where a person is unhappy with work done by a builder and so complains about their council's building control department.
- It would not be appropriate to investigate most of the complaint, and only smaller, marginal issues remain. So, for example, we will not usually investigate a failure by a council to adhere to its complaints procedure if the complaint itself is not a matter we can consider (ie it does not pass the 'jurisdictional' stage).

3) The Remedy Test

Assesses how likely it is the LGO will be able to achieve a meaningful outcome for the complainant

We will be less likely to investigate a complaint where:

- In our view the service provider's response to the complaint already represents a reasonable and proportionate outcome.
- We are unlikely to achieve a significantly different result.
- There is no achievable or realistic remedy, or no prospect that we will achieve the result that the complainant seeks.
- There is no practical prospect that we would be able to investigate the allegations. (For example, where the complaint depends on the uncorroborated word of one person against another.)

- The claimed loss is disproportionate to the reasonable expectations of what the service provider could be held accountable for. (For example, consequential losses from a missed journey as a result of a temporary bus stop closure).
- The claimed loss is large and would be more appropriately addressed through action in the civil courts. (For example, large commercial or business losses arising from an alleged failure by a public body).

4) The Public Interest Test

Assesses the level of wider public interest arising from the case

We are more likely to investigate a complaint where:

- It relates to an issue of significant public interest or to an issue of current concern to the Ombudsman.
- It relates to the abuse of power by a public body against a person. This may arise, for example, where a council behaves in an arbitrary and unreasonable manner over the sale of land. In these situations we have an important role in addressing the unequal balance of power between the person and the state, and in highlighting the higher standards expected of public bodies when exercising their administrative or commercial powers.
- Where the 'vulnerability' or particular circumstances of the complainant indicate the Ombudsman's intervention would be merited.

