

## **Standards Committee – 8 October 2012**

### **Local Government Ombudsman Annual Review 2011/12**

**Service Area:** Business Change (Programme Delivery & Governance)

#### **Summary of report:**

The purpose of this report is to:

- a) provide information on the number and range of complaints referred by the Local Government Ombudsman to the Council during the financial year 2011/12
- b) submit for Committee's consideration the Ombudsman's annual letter

The report links to the council's values, and contributes to the working smarter agenda. Effective complaints handling arrangements which enable residents and other service users to make complaints and raise concerns about our services, help the council to identify and address customer needs and expectations, and by learning from complaints to improve our service delivery.

**Recommendations:** To note the contents of this report.

#### **Resource and legal considerations:**

There are no specific financial implications arising from this report. In some cases, the local settlement of particular complaints may include a financial element, including comparatively small cash sums for the complainant's 'time and trouble' in pursuing the matter, and in appropriate cases the payment of sums reflecting the loss incurred by a complainant as a result of the council's actions.

The Ombudsman service operates in accordance with provisions in the Local Government Act 1974, as amended by subsequent legislation. Councils are expected to respond to enquiries received in the Ombudsman within a set timescale – 28 calendar days for our initial response – and, where required, must give the Ombudsman access to files and other information relevant to the complaint, and to officers and Members who have had an involvement in the matter. Any reports of maladministration that are received must be considered by the council, as must further reports issued in cases where the council declines to implement the Ombudsman's recommendation.

#### **Citizen impact:**

The Ombudsman's role mainly revolves around the consideration of specific complaints by individual residents and service users, about the actions of local councils, some other public authorities, and (solely in relation to school admissions) schools. Some complaints are referred back to the authority concerned for investigation through local complaints procedures whilst others, normally after they have been considered at a

local level are investigated by the Ombudsman service to a conclusion. The Ombudsman has recently taken on a new role in respect of complaints about private care homes from self funded residents.

The Ombudsman service also has a broader role in relation to good administrative practice, and through its conclusions on individual complaints, sometimes highlighted in its annual report and the annual letters to authorities, seeks to identify learning points of more general applicability. The Ombudsman also from time to time produces guidance notes on good administrative practice to assist councils to identify best practice. In 2011/12 the Ombudsman issued reports identifying good practice in relation to homelessness ('Homelessness – how councils can ensure justice for homeless people', July 2011), the provision of education for children not in school ('Out of school out of mind? How councils can do more to give children out of school a good education', October 2011), and school admission appeal panels ('School admissions- are parents and pupils getting a fair hearing?', November 2011).

### **Environmental impact:**

A significant proportion of the Ombudsman's caseload relates to issues of an environmental nature, including planning, highways, and housing.

### **Performance and risk management issues:**

The Ombudsman's annual letter and annual report provides details relating to the number of complaints received, the outcome, and the average time taken to provide an initial response. These details are also published on the Ombudsman's website [www.lgo.org.uk](http://www.lgo.org.uk).

### **Equality implications:**

The Ombudsman service provides information on its own website in a number of languages. The Ombudsman's introductory leaflet is circulated within the council, including libraries and other local service points, and is available externally, for instance at the Citizens Advice Bureau.

### **Consultation:**

The preparation of the council's initial response to complaints received, and the councils' response to subsequent enquiries, comments or proposals from the LGO's team of investigators, is coordinated by Programme Delivery & Governance, working closely with relevant services.

Details of the Ombudsman service are available in the council's corporate complaints (Tellus) leaflet, via our web site, and directly from the Ombudsman via their own website and through their Advice Team.

### **Background papers: None**

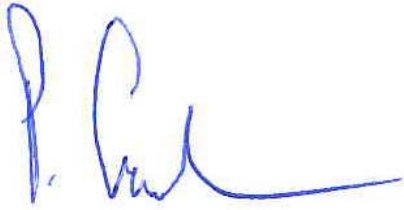
### **Contact officer:**

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**Signed:**

A handwritten signature in blue ink, appearing to read 'P. Gordon', with a long horizontal flourish extending to the right.

**Paul Gordon, Head of Business Change:**  
**Date: 20 September 2012**

## **1. FURTHER INFORMATION**

- 1.1 The Commission for Local Administration, usually known as the Local Government Ombudsman service ('the Ombudsman', or 'the LGO'), was established by Part 3 of the Local Government Act 1974. The service investigates complaints about the range of local authority functions and services. The Ombudsman can investigate complaints about how the council has done something, looking at the council's administrative practice, and at how the service has acted in the matter concerned but cannot question what a council has done simply because someone does not agree with the outcome. The Ombudsman service which deals with complaints relating to Walsall is based in offices to the south of Coventry, headed by Dr Jane Martin, one of the Commissioners.

## **2. THE OMBUDSMAN'S PROCEDURES**

- 2.1 Residents and service users can make a complaint to the Ombudsman, using one of their complaint forms, by e-mail or letter, or by phone to the service's Advice Team (0845 602 1983). A small number of complaints are rejected by the Ombudsman service at this stage: they may be outside the Ombudsman's jurisdiction; the complainant may have other remedies (e.g. a tribunal, or formal appeal procedure); or the complaint may have been submitted too late to be considered (normally over 12 months after the incident or issue arose – though the LGO has discretion to investigate, if there are reasonable grounds).
- 2.2 These cases are generally referred back to the relevant council purely for its information, although since September 2010 the LGO has still issued a decision notice in each case setting out the complaint and its reasons for not investigating the matter.
- 2.3 Also, in a significant number of cases, including many made to the Advice Team, the Ombudsman may decide to pass the complaint back to the council concerned because the complainant has not used, or has not exhausted the council's own complaints procedures first, and the council will then be asked to review the complaint through those procedures.
- 2.4 All other cases are referred to the relevant council, seeking a detailed written response within a 28 calendar day period. The Ombudsman will then consider the council's response, asking for further information or clarification as appropriate, before deciding whether to take the matter further. The LGO may at this stage consider that the council has acted reasonably, and therefore decide not to pursue the complaint. They may consider that the council has settled the matter locally or on occasion may suggest to the council a local settlement at this stage.
- 2.5 Where the Ombudsman considers that the council's initial response leaves matters unclear, the investigation will continue on, to establish and record all relevant facts, in order to reach a decision on the complaint. This may involve further letters or emails between the LGO and the council, or on occasion an inspection of all relevant files, and interviews with relevant individuals involved in the matter to a significant degree, including Members, members of staff normally including those directly involved in the case concerned as well as one or more

senior managers, and the complainant(s). The Ombudsman is able to require individuals who have moved on to other employment, or who may have retired to attend for interview.

- 2.6 After carrying out these enquiries, the Ombudsman will either terminate the investigation, if no fault on the council's part is found; or propose a local settlement; or in a small number of instances he may prepare a formal report setting out the facts which may occasionally result in a formal report of maladministration. As noted above, in all cases the investigator now prepares a decision notice, setting out the facts of the case in an anonymised form, their conclusions and the outcome of the investigation. At some stage it is anticipated that the LGO will begin to place these decision notices on its web site, as a means of demonstrating the role that the Ombudsman service plays in addressing complaints that it has received.
- 2.7 The investigation of some complaints can take a considerable time, sometimes more than a year, with correspondence back and to, interviews with officers or Members, file inspections, and the preparation of decision notices or reports.
- 2.8 On occasions that a formal investigation report is proposed, the council and anyone who has been interviewed will be asked to comment on the factual element of the report before the full report, which will include conclusions and recommended course of action is published. In such cases, the report will be sent by the Ombudsman to the complainant, the council, and also to the news media. The council must place a notice in the local press, and must make the report available for viewing. The report is also made available on the Ombudsman's website. Within three months, the report should be considered by a committee of the council with the Ombudsman advised of the council's response to their recommendations. Such a report is included on the agenda for this evening's meeting.

### **3. ANNUAL LETTER AND STATISTICAL REVIEW**

- 3.1 Each year the Ombudsman sends each council an annual letter, setting out details of the Council's performance during the year, and offering advice and guidance. The letter sent to the Council by the Ombudsman on 22 June 2012 and published on 12 July 2012 is attached to this report. The letter is available publicly via the Ombudsman's website [www.lgo.org.uk](http://www.lgo.org.uk). The main points are set out below.

#### **3.2 New complaints received**

During the year 2011/12 the Ombudsman received 72 new complaints about the council. This represents a reduction on the 2010/11 total (84) but an increase on the 2009/10 figure (62). Comparative details relating to neighbour authorities are set out below; the figures of some neighbouring authorities include significant numbers of complaints relating to housing management issues.

	2009/10	2010/11	2011/12
Birmingham	467	602	588
Coventry	78	94	86
Dudley	91	88	84

Sandwell	123	179	147
Solihull	45	52	51
<b>Walsall</b>	<b>62</b>	<b>84</b>	<b>72</b>
Wolverhampton	86	114	90

### 3.3 Analysis by nature of complaint

Of the 72 complaints received by the council in 2011/12, 15 were categorised by the LGO as relating to education and children's services, 13 to adult care services, 13 to planning and development, 12 to benefits & tax, 10 to environmental services, public protection and regulation, 5 to corporate and other services, 2 to highways & transport, and 2 to housing matters.

### 3.4 Analysis by outcome

Set out below is an analysis of the 44 complaints determined by the Ombudsman during 2011/12. Please note that the number of complaints concluded in a year is different to the number received in that year, as some cases received in one year will be concluded in another year. Also the figures shown in paragraph 3.2 include complaints which the Ombudsman decides to refer back to the council for local investigation. Of the 44 cases, none resulted in a formal report of maladministration being published. There were 14 cases where the Ombudsman terminated investigations as the injustice had been remedied during the course of the LGO's enquiries; the Committee should note that these cases were formerly categorised as local settlements. In each of these cases, the council has agreed a means of resolving the complaint with the LGO.

3.5 In summary, the 44 complaints can be divided into the categories set out below. Comparative figures have not been included for 2010/11 as the Ombudsman has changed the categories used for the present year's report.

Complaints not investigated by the Ombudsman:	<b>14 of which</b>
• no power to investigate	<b>3</b>
• no reason to use exceptional power to investigate	<b>6</b>
• investigation not justified	<b>5</b>
Cases investigated by the Ombudsman:	
• not enough evidence of fault	<b>13</b>
• no or minor injustice	<b>3</b>
• injustice remedied during enquiries	<b>14</b>
Cases investigated by the Ombudsman, leading to a formal investigation report	<b>0</b>
Total	<b>44</b>

### 3.6 Average response time

The council's average initial response time, for the 21 complaints where a detailed, formal response to the Ombudsman was required, was 32.0 calendar days. The council's figure therefore remains just outside of the Ombudsman's 28.0 day target timescale. Comparative figures for previous years are, for 2010/11, 28.7 days and, for 2009/10, 30.1 days. Walsall's figure places the

council fifth of the seven West Midlands metropolitan authorities; the lowest average this year was 23.3 calendar days, the highest 46.6 calendar days. These figures include weekends and bank holidays, and are calculated from the day of despatch to the date of receipt back at the Ombudsman's Coventry offices. Given the volume of documentation that is generally required, and the sensitive nature of some of that documentation, the council's reply is generally made by post. Of the 21 cases, 11 were returned within the 28 calendar day period.

# Local Government OMBUDSMAN

22 June 2012

*By email*

Mr P Sheehan  
Chief Executive  
Walsall Metropolitan Borough Council

Dear Mr Sheehan

## **Annual Review Letter**

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ended 31 March 2012. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number forwarded by the Advice Team to my office, and decisions made on complaints about your authority. The decision descriptions have been changed to more closely follow the wording in our legislation and to give greater precision. Our guidance on statistics provides further explanation ([see our website](#)).

The statistics also show the time taken by your authority to respond to written enquiries.

I am pleased to say that I have no concerns about your authority's response times and there are no issues arising from the complaints that I want to bring to your attention.

## **Changes to our role**

I am also pleased to have this opportunity to update you on changes to our role. Since April 2010 we have been exercising jurisdiction over the internal management of schools on a pilot basis in 14 local authority areas. This was repealed in the Education Act 2011 and the power restored to the Secretary of State for Education. During the short period of the pilot we believe we have had a positive impact on the way in which schools handle complaints. This was endorsed by independent research commissioned by the Department for Education which is available [on their website](#).

Our jurisdiction will end in July 2012 and all complaints about internal school matters will be completed by 31 January 2013.

From April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman (IHO). We are working with the IHO to ensure a smooth transition that will include information for local authority officers and members.



### ***Supporting good local public administration***

We launched a new series of Focus reports during 2011/12 to develop our role in supporting good local public administration and service improvement. They draw on the learning arising from our casework in specific service areas. Subjects have included school admissions, children out of school, homelessness and use of bankruptcy powers. The reports describe good practice and highlight what can go wrong and the injustice caused. They also make recommendations on priority areas for improvement.

We were pleased that a survey of local government revenue officers provided positive feedback on the bankruptcy focus report. Some 85% said they found it useful.

In July 2011, we also published a report with the Centre for Public Scrutiny about how complaints can feed into local authority scrutiny and business planning arrangements.

We support local complaint resolution as the most speedy route to remedy. Our training programme on effective complaint handling is an important part of our work in this area. In 2011/12 we delivered 76 courses to councils, reaching 1,230 individual learners.

We have developed our course evaluation to measure the impact of our training more effectively. It has shown that 87% of learners gained new skills and knowledge to help them improve complaint-handling practice, 83% made changes to complaint-handling practice after training, and 73% said the improvements they made resulted in greater efficiency.

Further details of publications and training opportunities are on [our website](#).

### ***Publishing decisions***

Following consultation with councils, we are planning to launch an open publication scheme during the next year where we will be publishing on our website the final decision statements on all complaints. Making more information publicly available will increase our openness and transparency, and enhance our accountability.

Our aim is to provide a comprehensive picture of complaint decisions and reasons for councils and the public. This will help inform citizens about local services and create a new source of information on maladministration, service failure and injustice.

We will publish a copy of this annual review with those of all other English local authorities on our website on 12 July 2012. This will be the same day as publication of our Annual Report 2011/12 where you will find further information about our work.

We always welcome feedback from councils and would be pleased to receive your views. If it would be helpful, I should be pleased to arrange a meeting for myself or a senior manager to discuss our work in more detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Martin', with a horizontal line underneath.

Dr Jane Martin  
Local Government Ombudsman

## LGO advice team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Planning & Development	Total
Advice given	3	2	1	1	0	0	0	1	8
Premature complaints	2	7	0	5	8	1	1	1	25
Forwarded to Investigative team (resubmitted)	4	3	0	2	2	0	1	3	15
Forwarded to Investigative team (new)	4	0	4	7	0	1	0	8	24
Total	13	12	5	15	10	2	2	13	72

## Investigative team - Decisions

Not investigated			Investigated			Report	Total
No power to investigate	No reason to use exceptional power to investigate	Investigation not justified & Other	Not enough evidence of fault	No or minor injustice & Other	Injustice remedied during enquiries		
3	6	5	13	3	14	0	44

Response times to first enquiries	No of first enquiries	Avg no of days to respond
	21	32.0