



STANDARDS COMMITTEE

3 NOVEMBER 2004

AGENDA
ITEM:

LOCAL GOVERNMENT OMBUDSMAN ANNUAL REVIEW 2003-2004

Service Area: Corporate Support (Policy Unit)

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 2003-2004
- b) provide information on the Ombudsman's annual letter for the year from April 2003

Background Papers: None

Recommendations

To note the contents of this report.

Signed:

Executive Director: JAMIE MORRIS

Date: 25.10.04

Resource and Legal Considerations

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 – 15 working days for our initial response – and 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. Reports of maladministration must be considered by the Council, as must further reports issued in cases where the Council declines to implement the Ombudsman's recommendation, although ultimately the Ombudsman cannot require a Council to comply with his recommendations.

Citizen Impact

The Ombudsman is very largely concerned with specific complaints by individual residents and service users. However, the Ombudsman has a broader role in relation to good administrative practice, and seeks to identify through his conclusions on individual complaints, through the annual report and these new annual letters to Councils, learning points of more general applicability.

The Ombudsman has in the past issued a number of guidance notes, including one on complaints handling, which have helped Councils to identify best practice.

Environment Impact

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

Performance Management and Risk Management Issues

Ombudsman statistics are no longer the basis for any Best Value Indicators (PI's). However, the Council retains local PIs on its handling of complaints; the current Best Value Performance Plan includes PIs relating to the total number of complaints received from the Ombudsman, and also the number resulting in a local settlement or a report of maladministration. For next year's Performance Plan, to be issued in June 2005, it is suggested that a further local PI be added, based on our average response time to initial enquiries.

Equality Implications

The Ombudsman service provides leaflets in a number of languages, including Bengali, Gujarati, Hindi, Punjabi, Turkish and Urdu, in large print, and other formats. These leaflets are circulated widely within the Council, including local service points, and are available externally at the Citizens Advice Bureau.

Consultation

Matters relating to the Ombudsman are coordinated by the Policy Unit, and, council-wide, by the complaints co-ordinators group. Details of the Ombudsman service are available in the Council's Tellus leaflet, and via our web site.

Vision 2008

Complaints handling, and the ability of residents and other service users to make complaints about our services, are integral to the Council's vision, and specifically to our strategic priorities to make it easier to access local services, and to listen to what local people want.

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1. FURTHER INFORMATION

- 1.1 The Commission for Local Administration, commonly referred to as the Local Government Ombudsman service ('the Ombudsman'), was established by Part 3 of the Local Government Act 1974. There are three Local Government Ombudsmen in England and they each deal with complaints from different parts of the country. They investigate complaints about most council matters including housing, planning, education, social services, consumer protection, drainage and council tax. The Ombudsmen can investigate complaints about how the council has done something, but they cannot question what a council has done simply because someone does not agree with it. The Ombudsman who deals with this Council is Jerry White who is based in Coventry.

2. THE OMBUDSMAN'S PROCEDURES

- 2.1 Each complaint sent to the Ombudsman, on a pre-printed complaint form, or simply by letter, is looked at by one of the Ombudsman's team of investigators. A small number of complaints are rejected 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); the complaint may be submitted too late to be considered (normally over 12 months after the incident or issue arose); or it may not relate to administrative matters. These cases are generally referred to the relevant Council purely for its information. Also, in an increasing number of cases, the Ombudsman decides to pass back the complaint to the Council, to be investigated through the Council's own complaints procedures.
- 2.2 All other cases are referred to the Council concerned, with a written response required within a 15 working day period. The Ombudsman will look at the Council's response, asking for further information or clarification as appropriate, before deciding whether to take the matter further. He may at this stage consider that the Council has acted reasonably, and therefore decide not to pursue the complaint. He may consider that the Council has settled the matter locally or on occasion he may suggest to the Council a local settlement at this stage.
- 2.3 Where the Ombudsman considers that the Council's initial response leaves matters unclear, he will continue with his investigation procedure, to establish and record all relevant facts, so that he can reach a decision on the complaint. This will normally involve an inspection of all relevant files, and interviews with all individuals involved in the matter to a significant degree, including any Members, employees, ex-employees, and the complainant(s).
- 2.4 After carrying out these enquiries, the Ombudsman will either end the investigation, if no fault on the Council's part is found, or he will prepare a draft report setting out the facts. The Council and all those who have been interviewed (see paragraph 2.3 above) will be asked to comment on the draft report before the Ombudsman publishes his formal investigation report, which will include his conclusions and recommended course of action.
- 2.5 The formal investigation report, including the Ombudsman's conclusions and recommended course of action, when it is published, will be sent by the Ombudsman to the complainant, the Council, to the Councillor (if any) who had counter-signed the complaint, and also to the news media. The Council must publish a notice in the local press, within two weeks, and must make the report available for viewing. Within three months, the report should be considered by a Committee of the Council and the Ombudsman advised of the Council's response to his recommendations. The Council's constitution places responsibility for considering any reports of this nature with this Committee.

- 2.6 If the Ombudsman is not satisfied with the Council's response, he may issue a further report, which the Council must consider. If the Ombudsman considers the Council's response to the further report to be unsatisfactory, provisions in the Local Government and Housing Act 1989 require the Council to publish in 2 editions of a local newspaper of the Ombudsman's choice, a notice setting out details of the complaint, the Ombudsman's proposed course of action, and, if the Council wishes, its own reasons for not following the Ombudsman's recommendations.

3. STATISTICAL REVIEW

3.1 Introduction

During the year 2003-2004 the Ombudsman forwarded 49 new cases to the Council. Cases received by the Council are dealt with by the Policy Unit, within Corporate Services, who work with other Council services to prepare a response.

3.2 Analysis by nature of complaint

The majority of complaints against the Council concern housing, social services, highways and planning matters; a pattern which mirrors the national picture. Further details are set out in the attached annual letter, including comparisons with 2001-2002 and 2002-2003.

- 3.3 Set out below is an analysis of the 51 complaints considered to a conclusion by the Ombudsman during this period; the difference in numbers reflects the fact that some cases received in one year will be concluded in the following year.

3.4 Analysis by outcome

Of the 51 cases concluded by the Ombudsman in 2003-2004, none resulted in a formal investigation report.

In summary, the 51 cases can be divided into the categories set out below.

	2003-2004
Cases rejected by the Ombudsman without seeking the Council's response; also cases passed back to the Council's own complaints procedures	17
Cases investigated by the Ombudsman, discontinued with no maladministration found	27
Cases investigated by the Ombudsman, considered to have been settled locally	7
Cases investigated by the Ombudsman, leading to a formal investigation report finding:	
maladministration, no injustice;	0
maladministration with injustice;	0
no maladministration	0
Total	51

- 3.5 As Members will see, the Ombudsman has issued no reports of maladministration to the Council during 2003-2004. In fact, of the 389 complaints received in the seven years to March 2004, only four formal reports have found maladministration on the Council's part, and there have been no findings of maladministration against the Council for the last three years.

4. ANNUAL LETTER

A new initiative by the Ombudsman service this year has been the preparation for each Council of 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, in June 2004 is attached to this report. The main points are as follows:

- 4.1 The letter gives a summary of **complaints received by the Ombudsman** – 20 less than in 2002-03. The decrease reflecting the transfer of housing management issues to Walsall Housing Group (WHG) and WATMOS and, he believes, increased effectiveness in the Council's own complaints handling. Likewise, the number of complaints that the Ombudsman has classified as 'premature' (sent to the Ombudsman, without recourse to the Council's own complaints procedure) was below average, suggesting that our local procedures are well known.
- 4.2 The letter sets out **details of complaints which were upheld**, in part or in total. As noted above, there were no reports of maladministration. There were seven local settlements (three of which related to one issue – cesspool emptying). The others related to education admission appeals, housing repairs, homelessness, and housing benefit administration. The Ombudsman has praised the Council's willingness to resolve complaints by settling them locally. In all cases, the service concerned has acted as agreed, and where necessary looked at procedures and made changes where appropriate.
- 4.3 The letter also notes that our **average initial response time** of 28 days exceeds the Ombudsman's 21 day timescale (15 working days). The Ombudsman asks the Council to consider what action can be done to improve this. This is a matter which the Policy Unit is addressing, working with directorates and services of the Council. It is encouraging to note that, although the number of initial responses made by the Council has increased year on year from 2001-2002, the speed of responses has improved from 33 days, to 31 days and to 28 days in 2003-04.
- 4.4 The letter also refers to the Ombudsman's role in promoting good administrative practice, and in particular complaints handling. The Ombudsman is developing training in complaints handling and seeking to pilot that training this year, for rolling out more widely in the next couple of years. Officers are pursuing this with the Ombudsman.

22 June 2004



The Commission for
Local Administration in England

FIRST CLASS

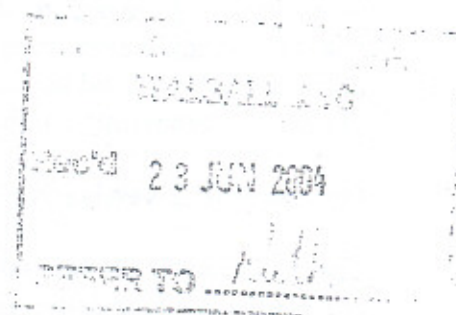
- Mrs A Shepperd
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Jerry White
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Our Ref: JRW/LMP/mw

If telephoning contact: Ms Vereena Jones on 024 7682 0043
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Dear Mrs Shepperd

Annual Letter 2003/4

In January, I wrote to tell you about the results of a pilot exercise that I and my colleague Ombudsmen carried out last year. We had sent a letter to a representative sample of local authorities spelling out the details of complaints we had determined during the year and drawing any lessons we thought appropriate in respect of the Councils' performance, their complaints-handling arrangements generally, and how lessons might be fed back into service improvement. We also explained our intention to send a similar annual letter to all councils this year.

So I am writing now to give you my reflections on the complaints received against your authority and dealt with by my office over the last year. I hope that this letter will:

- help your Council learn from the outcome of complaints made to me;
- underpin effective working relations between your Council and my office;
- identify opportunities for me and my staff to provide assistance that a council may wish to seek in bringing about improvements to its internal complaint handling; and
- provide complaint-based information which you may find useful in assessing and reviewing your performance.

/...

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This is the first year that an annual letter has been sent to all councils and I would very much welcome any comments you may have to help improve the presentation and content of future letters.

In addition to this narrative there are two attachments which form an integral part of the letter: statistical data covering a three year period and a note to help the interpretation of the data.

Complaints Received

During the period 1 April 2003 – 31 March 2004 I received 49 complaints against your authority, a significant reduction on the previous 12 months when I received 69 complaints. I do expect to see some fluctuation year on year but this may well indicate that the Council's own complaints handling has become even more effective. I refer to this again below. And housing stock transfer will have had some impact on the numbers of housing complaints coming to me.

Outcomes of Investigations

The incidence of administrative fault causing injustice is not reflected in the number of complaints made or determined but in the number of reports finding maladministration and injustice and local settlements. I issued no reports against your Council in this period.

I made 51 decisions on complaints during the year, of which I upheld, in whole or in part, seven. These were all settled locally.

Three of these were about the same matter, the changed basis of charging for emptying cesspools. When considering an increase in charges for emptying cesspools the report to Cabinet did not make it clear that the whole basis of charging was being changed. Previously the Council had not charged for emptying cesspools, only for disposal of waste. The remedy here was that a report would be put to the Cabinet to explain the true basis of the revised charges.

The other four were against different departments. One of these, concerning an education admission appeal, revealed an error in the Council's understanding of the law. The Council wrongly advised parents that in infant class size appeals the Council could only consider circumstances related to the school and not to the child's situation when applying the 'reasonableness' test. This had been changed by a court decision in 2000. When the Council realised the error it responded speedily to offer a new appeal and to change the guidance provided to parents. My investigators tell me that this new literature deals appropriately with the question.

On a housing repairs complaint the Council agreed to carry out repairs to the complainant's bathroom and kitchen and make a payment of £150 in recognition of the inconvenience caused as a consequence of the Council's delay.

In dealing with the difficult circumstances of a homeless applicant for housing the Council was quick to recognise the potential to remedy the complaint by meeting with the complainant and explaining what the Council could do for her. In addition the Council apologised for perceived shortcomings and made a payment of £150 in recognition of the anxiety and inconvenience she had been caused.

When considering representations from a landlord against the Council's decision to recover from him housing benefit overpaid to a tenant the Council failed to recognise the complainant's letter challenging the decision as being a request for a review. The Council quickly accepted that the determination should have been reviewed and having done so reversed the decision to recover the overpayment. In addition the Council apologised to the complainant and paid him £150 in recognition of the anxiety and inconvenience he had been caused.

The Council has been commendably ready to resolve complaints by settling them locally.

The Council's Complaints Procedure and Premature Complaints

During the year 20% of all decisions were returned to the Council to be dealt with under its own complaints procedure. This compares quite well to an average of 25% for all authorities and is an improvement over the 24% returned in 2002/2003. It indicates that the Council's procedures are well publicised to service users.

Liaison between the Ombudsman's Office and the Council

As you know, we ask for information on complaints to be sent within 21 days of receipt of our enquiry letter, whereas on average your Council's response to first enquiries has taken slightly more than 28 days and on several occasions the response has been incomplete. This delay causes us concern because it can only add to the frustration of complainants who are already aggrieved in some way by the Council. I would be grateful if you could consider whether action is possible to reverse this trend. If we can assist in any way, please let us know. We might, for instance, be able to offer some training or prioritise a place for your staff on one of our link officer seminars that we hold in Coventry each year. The next will be in November.

Conclusions/General Observations

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. I am keen to

/...

Mrs A Shepperd

ensure that this annual letter is as responsive as possible to the needs of local government and that it contains information and assessments that are helpful to service improvement. So, as I said at the beginning of this letter, I would very much welcome any comments you may have on the form and content of this letter and whether there is other information that would be useful to you. In particular, it would be useful to know whether the letter meets the objectives set out in the bullet points in the second paragraph.

There is also one specific matter on which I would welcome your views. As part of the development of our statutory remit to promote good administrative practice, over time we propose to increase significantly the amount of training we currently offer to councils in complaint handling. We have carried out exploratory research, including talking to a number of councils in depth and surveying the views of others. The responses we have received show that councils would value training from us, and we want to be responsive to such demands and ensure that we make a positive contribution to improvements in local government. During this financial year we are, therefore, developing and trialling standard courses which can be delivered either to a single local authority or to staff from a group of authorities at a regional centre. We shall evaluate these courses, in conjunction with the councils concerned, together with tailored courses that we currently provide to a limited number of councils, and from there decide on future provision. Our aim, depending on availability of resources and demand from local authorities, is then gradually to increase the amount of training we offer in 2005/6 and 2006/7. To sustain an effective training function that does not jeopardise our core business of investigating complaints it will be necessary for us to charge for training. The charge will, however, be significantly less than the overall costs of the activity and will relate only to the direct expenditure arising from the provision of the training.

I look forward to hearing from you. It would be helpful to receive any comments you may have either on the form and content of this annual letter or on the training initiative by 31 August 2004. Meanwhile Ms Vereena Jones or Mrs Susan Vaile will be pleased to respond to any queries.

If you would like a plain paper copy of this letter and the attachments in electronic form, please email s.vaile@lgo.org.uk or v.jones@lgo.org.uk.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'J R White', with a stylized, cursive script.

J R White
Local Government Ombudsman

Enc: Statistical data covering a three year period and
a note to help the interpretation of data

LOCAL AUTHORITY REPORT - Walsall MBC

For the period ending 31/03/2004

Complaints received by category	Education	Highways	Housing (not incl. HB)	Housing Benefit	Local Taxation	Other	Planning	Social Services	Total
01/04/2003 - 31/03/2004	4	5	12	1	0	11	9	7	49
2002 / 2003	5	3	18	3	3	15	12	10	69
2001 / 2002	2	4	28	0	5	6	5	3	53

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	M reps	NM reps	No Mal	Omb Disc	OJ	Prem	Tot ex prem	Total
01/04/2003 - 31/03/2004	0	7	0	0	22	5	7	10	41	51
2002 / 2003	0	5	0	0	27	3	10	14	45	59
2001 / 2002	2	15	0	0	16	5	8	10	46	56

See attached notes for an explanation of the headings in this table.

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2003 - 31/03/2004	29	28.4
2002 / 2003	24	31.2
2001 / 2002	26	33.3

Notes to help interpret the Commission's local authority statistics

1. Complaints received

This information shows the number of complaints received by service area and in total within the periods given. These figures will include complaints that were made prematurely to the Ombudsman (see below for more explanation) and which we referred back to the council for consideration.

2. Decisions

This information records the number of decisions made by the Ombudsman, by outcome, within the periods mentioned. This number will not be the same as the number of complaints received, because some complaints are made in one year and determined in the next. Below we set out a key explaining the outcome categories.

MI reps: These are cases where we have concluded an investigation and issued a formal report finding maladministration causing injustice. (The figures for the years 2001/2 and 2002/3 may include reports which had a finding of local settlement. For legal reasons, reports are no longer issued with this finding.)

LS: These are decisions by letter discontinuing an investigation because an acceptable local settlement has been obtained. They relate to cases where there has been administrative fault and a remedy is recommended by the Ombudsman and agreed by a council during the course of an investigation; or cases where the council itself offers a satisfactory remedy before an investigation has been completed.

M reps: These are cases where we have concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: These are cases where we have concluded an investigation and issued a formal report finding no maladministration by the authority.

No mal: These are decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: These are decisions by letter discontinuing an investigation where 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 the matter being pursued further.

OJ: These are complaints which were not pursued because they were outside the Ombudsman's jurisdiction