



## **Standards Committee**

**8 October 2007**

### **Local Government Ombudsman Annual Review 2006/07**

**Service Area:** Corporate Performance Management

#### **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 2006/07
- b) submit for Committee's consideration the Ombudsman's annual letter

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

#### **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 – 28 calendar 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. 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 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 through his conclusions on individual complaints, through the annual report and his annual letter to Councils, seeks to identify learning points of more general applicability. The Ombudsman also produces various guidance notes on good administrative practice to assist councils to identify best practice. Also the Ombudsman issues an annual digest of significant cases, which he believes offer

learning opportunities to other councils. These volumes of “case law” are circulated within the council, and are an example of how the organisation learns from complaints.

### **Financial Implications:**

There are no specific financial implications arising from this report. The report indicates that payments of between £100 and £400 have been made during 2006/07 towards the local settlement of seven of the complaints investigated by the Ombudsman.

### **Environmental impact:**

A significant proportion of the Ombudsman’s caseload relates to issues of an environmental nature, including planning, highways, and housing. This Committee should note that, prior to the transfer of the council’s housing stock to Walsall Housing Group and WATMOS in 2003, a significant proportion of complaints to the Ombudsman related to housing tenancy issues. Therefore in Walsall these matters are no longer within the remit of the Local Government Ombudsman, having transferred to the Independent Housing Ombudsman at that time.

### **Performance 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 Ombudsman complaints which are included in the annual Performance Annexe to the Corporate Plan, published each June. These include 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. These details are also set out in this report.

### **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 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 Corporate Performance Management, working closely with relevant service managers. Externally, 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.

**Background papers: None**

**Signed:**

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

**Executive Director: Carole Evans**

**Date: 24 September 2007**

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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. The service investigates 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, looking at the council's administrative practice, and at how the service has acted in the matter concerned but they 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 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 a significant number of cases, the Ombudsman decides to pass back the complaint to the council concerned, to be investigated through the council's own complaints procedures.
- 2.2 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. 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 may involve an inspection of all relevant files, and occasionally include 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; he may again propose a local settlement; 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, 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 the Standards 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 2006/07 the Ombudsman forwarded 58 new cases to the Council. Cases received by the Council are coordinated by Corporate Performance Management, who work with other Council services to prepare a response. This represents an increase on 2005/06, when 53 cases were received, and on 2004/05, when 48 new cases were received.

#### **3.2 Analysis by nature of complaint**

The majority of the 58 complaints relating to the council concerned planning and building control (15), benefits (10), and local taxation (6). Others related to adult social care (3), children and family services (2), education (2), housing (4), highways and traffic management (3), waste management (3), anti social behaviour (2), and 8 others.

- 3.3 Set out below is an analysis of the 60 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. Again, the number of cases determined by the Ombudsman shows a slight upward trend, from 56 in 2005/06 and 52 in 2004/05.

#### **3.4 Analysis by outcome**

Of the 60 cases concluded by the Ombudsman in 2006/07, none resulted in a formal investigation report.

In summary, the 60 cases can be divided into the categories set out overleaf.

	<b>2006/07</b> (2005/06 figures in brackets)
Cases rejected as premature and passed back to the Council's own complaints procedures	18 (18)
Cases investigated by the Ombudsman, discontinued with no maladministration found	18 (19)
Cases rejected by the Ombudsman as being outside his jurisdiction	9 (7)
Cases investigated by the Ombudsman, considered to have been settled locally	15 (12)
Cases investigated by the Ombudsman, leading to a formal investigation report finding:	
maladministration, no injustice;	0 (0)
maladministration with injustice;	0 (0)
no maladministration	0 (0)
<b>Total</b>	<b>60 (56)</b>

3.5 As the Committee will see, the Ombudsman has issued no reports of maladministration against the Council during 2006/07. There have been no findings of maladministration against the Council for the last five years.

#### 4. LOCAL SETTLEMENTS

Brief details of the 15 local settlements are outlined below:

1	Ref. 05/11633. Housing Benefit. Relates to errors and delays in the administration of a housing benefit claim, in relation to overpayment of benefit in 2005 and arrangements for its recovery. The council apologised for these matters.
2 & 3	Ref. 05/14511, Ref. 05/16777. Planning. Relates to an application for housing. The council failed, in granting approval, to act upon comments from Pollution Control that conditions be imposed to restrict the hours that building work could take place. The council has pointed out that as other legislation applies to regulate these matters, a specific planning condition might not be required. However, in view of the complainant's time and trouble in pursuing the matter with the Ombudsman the council has made a payment of £100 to both complainants.
4	Ref. 05/17753. Planning. Related to conditions that the council had attached to a planning consent. The applicant had advised that she could not agree to the conditions. The council had subsequently categorised the application as withdrawn. The complaint was settled locally, as the application was reactivated and, council policy having changed in the meantime, Development Control Committee considered the application further, undertook further consultation, and subsequently approved the application subject to conditions.

5	Ref. 06/00069. Highways. Related to a tree situated on the pavement, where the complainant was seeking pruning work on behalf of an adjacent householder. The council had also been slow in replying to his complaints on the matter. The council apologised for the delay, and arranged a site visit by the relevant officers to assess work that had been undertaken.
6	Ref. 06/00545. Planning. Relates to the council's failure to notify the complainant of proposed development for housing to the rear of her property, denying her the opportunity to make representations. The council made a payment of £250 to the complainant, and has reminded case officers of procedures for publicising planning proposals to neighbours.
7	Ref. 06/01840. Housing and council tax benefit. Relates to the suspension of housing and council tax benefit, the council having failed to notify the complainant of this; also the council failed to acknowledge a complaint made by the complainant within 5 working days, as our procedures indicate. The council has apologised to the complainant.
8	Ref. 06/02776. Housing. Relates to a renovation grant, to delays in the processing of the complainant's application, and in obtaining tenders, and failure to keep the complainant informed of progress in these respects. The council also failed to keep the complainant informed of progress regarding a start date, including the signing of the contract. Finally, there was delay in relation to the work itself. In recognition of these delays, the council has made a payment of £400 to the complainant, and apologised.
9	Ref. 06/03736. Planning enforcement. Relates to a fence and gates erected in a residential area, to the time taken by the council to take enforcement action, and the council's failure to keep the complainant adequately informed of progress in this respect. The council made a payment of £100 to the complainant, and has provided him with further updates on the enforcement action taken in this case.
10	Ref. 06/05365. Housing. Relates to an enquiry relating to replacement windows; the complainant felt misled that the works would qualify for grant assistance when replacement of his windows did not qualify for assistance. The council has apologised for the misunderstanding.
11	Ref. 06/08444. Open space. Related to grass cutting and vegetation control of an area of open space. The service made certain changes to the maintenance regime to address the views of the complainants.
12	Ref. 06/11996. Waste management. Related to the non collection of domestic green waste (brown bin). The layout of the property and other nearby properties, had led to confusion; also the service had failed to monitor the situation after the problem had arisen. The council apologised to the householder.
13	Ref. 06/12480. Housing benefit. Relates to the suspension of a claim, and the council's failure to advise the complainant of the suspension, reasons for it, and advice on ways in which the benefit could be reinstated. Also, after the complainant provided details there was a delay in processing the claim. The council has made a payment of £100, and has reminded staff that, in such circumstances, clients should be advised of the reasons for the suspension of benefit.

14	Ref. 06/14320. Planning. Relates to a planning application for the demolition of a house and the erection of two new houses. The Ombudsman concluded that the council failed to consider the effect of the development on an adjacent property. In addition, the council had provided the complainant with information regarding the plans which had been misleading. The council has acknowledged its error, and offered to make a payment of £100.
15	Ref. 06/14379. Housing. Relates to arrangements for the nomination of the complainant for housing, and the complainant's desire for a nomination to areas other than the borough of Walsall. The council has apologised to the complainant for any distress caused by its actions.

## 5. ANNUAL LETTER

As last year the Ombudsman has sent 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 in June 2007 is attached to this report. The main points are as follows:

- 5.1 The letter gives a summary of **complaints received by the Ombudsman**. The number of complaints that the Ombudsman has classified as 'premature' (sent to the Ombudsman, without recourse to the Council's own complaints procedure) suggests that our local procedures are widely known and accessible.
- 5.2 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 15 local settlements. In all cases, the service concerned has acted as agreed, and where necessary looked at procedures and made changes where appropriate (see paragraph 4 above). The Ombudsman has welcomed the council's willingness to seek and to accept the local settlement of complaints where mistakes have been made.
- 5.3 The letter also provides an **average initial response time**, for those complaints where a response to the Ombudsman is required. In 2005/06 after two years of improving average response times, the council's average performance fell back to 36.1 calendar days, below the Ombudsman's 28 day target timescale. In 2006/07, this figure improved, to 34.5 days, but remains outside the target timescale. Figures show that the council's performance in this respect falls in the middle band of metropolitan and unitary councils, and efforts have been made to bring this average time down, so as to achieve the target. The figure of 34.5 calendar days is calculated from the date of despatch from the Ombudsman's office to the date that the council's response is received. Calculating our performance on working days, from receipt by the council to despatch, our average is 21.1 working days.