

Standards Committee – 4 January 2007

Local Government Ombudsman Annual Review 2005-2006

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 2005-2006
- b) provide information on the Ombudsman's annual letter for the year

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 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.

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 has in the past issued a number of guidance notes, including one on complaints handling, which have helped Councils to identify best practice. Also the Ombudsman issues an annual digest of significant cases, where the service believes that other Councils might learn from the case. These volumes of "case law" are circulated across the Council, as 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 £2967 have been made during 2005-06 towards the local settlement of six 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. These matters, now the responsibility of WHG and WATMOS, 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; the current 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.

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 the complaints co-ordinators for each directorate, and with relevant service managers. 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

Contact officer:

John Pryce-Jones, Corporate Performance Manager (Consultation, Customer Feedback & Information) (Ext. 2077)

E-mail: Pryce-JonesJ@walsall.gov.uk

Signed:

Executive Director: Carole Evans

Date:

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 a significant 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, currently within a 28 calendar day period. The Ombudsman will 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 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 2005-2006 the Ombudsman forwarded 53 new cases to the Council. Cases received by the Council are dealt with by Corporate Performance Management, who work with other Council services to prepare a response.

3.2 Analysis by nature of complaint

The majority of the 53 complaints against the Council concern planning (16), revenues and benefits (9), and social services matters (10); a pattern which largely mirrors the national picture. Further details are set out in the attached annual letter, including comparisons with 2004-2005 and 2005-2006. Prior to the transfer of the Council's housing stock to Walsall Housing Group and WATMOS, a significant number of complaints were housing related, in line with national statistics.

- 3.3 Set out below is an analysis of the 56 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 56 cases concluded by the Ombudsman in 2005-2006, none resulted in a formal investigation report.

In summary, the 56 cases can be divided into the categories set out oveleaf.

	2005-2006
Cases rejected as premature and passed back to the Council's own complaints procedures	18
Cases investigated by the Ombudsman, discontinued with no maladministration found	19
Cases rejected by the Ombudsman as being outside his jurisdiction	7
Cases investigated by the Ombudsman, considered to have been settled locally	12
Cases investigated by the Ombudsman, leading to a formal investigation report finding:	
maladministration, no injustice;	0
maladministration with injustice;	0
no maladministration	0
Total	56

3.5 As the Committee will see, the Ombudsman has issued no reports of maladministration against the Council during 2005-2006. There have been no findings of maladministration against the Council for the last five years.

4. LOCAL SETTLEMENTS

Brief details of the 12 local settlements are outlined below:

1	Environmental Health – relating to how the council dealt with a complaint about noise nuisance from neighbours. The settlement included an apology and a payment of £150 to reflect the complainant's time and trouble in pursuing the matter.
2	Highways – relating to the positioning of a bus shelter outside the complainant's property, and to the consideration by the council of the impact on the complainant's quality of life. The council agreed to liaise with Centro so that the matter could be reviewed by Centro's Shelter Appeals Panel, and also to relocate a litter bin closer to the shelter.
3	Social Services – loss of personal files – local settlement included an apology and a payment of £1,000.
4	Social Services – services for adults - relates to a complaint regarding the council's decision not to convene a stage three complaint panel. The council settled the complaint by contacting the complainants direct to offer to meet them and discuss the matter.
5	Leisure and recreation – failure to consult sports club – relocation of club to new site. The council apologised to the club and paid £500 for the uncertainty and inconvenience suffered by the club's members.

6	Social Services – services for adults – relates to council action following instance of domestic violence and handling of subsequent complaint – local settlement related included an apology and commitment to staff training
7	Education – admissions – incorrect information given to parents regarding the allocation of a place at a local primary school – delay in notifying parents of the mistake. The council apologised for the error and the inconvenience caused.
8	Social Services – services for adults - relates to an assessment made under the fairer charging policy, and calculations of disability related expenditure (DRE). The settlement included a commitment to consider the inclusion of additional costs in the DRE calculation, to ensure invoices for care are made bi-monthly, to provide an explanation of the costs included in a particular invoice, to apologise for the confusion caused by some correspondence, and to pay £250 in recognition of the time and trouble spent pursuing the matter.
9	Planning – enforcement – the complaint related to consultation arrangements for amendments to plans, and to enforcement action on breaches of planning control – failure to keep complainant informed of action taken. The council apologised for not responding to the complainant's concerns, and agreed to monitor progress on the construction, and to ensure a prompt completion of work.
10	Social Services – services for adults – relates to delay in payment of disabled facilities grant, and to misleading information on likely timescales. The council paid a sum of £2,967 as compensation.
11	Planning – consideration/neighbour amenity – relates to planning permission granted for a domestic extension and impact on the complainant. The local settlement included payment of £100 in recognition of the complainant's time and trouble in pursuing the matter.
12	Local taxation – relates to the payment of an outstanding balance of council tax, which was paid but proceedings for recovery were not stopped. Council apologised and corrected its records.

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 2006 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 12 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 praised 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. After two years of improving average response times, to 24.9 calendar days in 2004-2005, the council's performance for 2005-2006 fell back to 36.1 calendar days, well below the Ombudsman's 28 day target timescale.

Based upon 19 cases, the average figure can be skewed by a small number of cases and it may be noted that the council received a number of complex cases, some involving the investigation of cases dating back over several years, which required more than the usual amount of time for a full response to be prepared. However all services have now been reminded of the need to achieve the Ombudsman's deadlines, and other steps have been taken to ensure that the council's performance in this respect improves for 2006-2007.

- 5.4 The Ombudsman's office has made an offer to visit Walsall to discuss their procedures with relevant officers, and I intend to take up this offer. Recent discussion with the investigator who handles the majority of the council's cases has indicated that, generally, the Ombudsman service has a sound relationship with the council, has confidence that the replies provided by the council will be comprehensive, and, as noted above, welcomes the council's willingness to accept the Ombudsman's findings in cases where services may have made mistakes. Officers here intend to build on that relationship for the future.

6 OTHER MATTERS

- 6.1 The Committee should note that the recent government white paper 'Strong and prosperous communities', published by the Department for Communities & Local Government, includes a commitment to update the role of the Local Government Ombudsman in dealing with complaints from residents. The white paper indicates that the role and working practices of the Ombudsman will be revised, to ensure that the service operates effectively and is accessible to all. In particular government intends to make changes to:

- clarify that where authorities exercise their functions through joint arrangements or local partnerships, actions taken via such arrangements may be subject to investigation by the Ombudsman
- allow the Ombudsman to pursue an investigation where he finds flaws in a council's administration even where no injustice to an individual is found
- allow complaints to be submitted to the Ombudsman via e-mail or telephone as well as by traditional written means
- further enhance the ability of the Local Government Ombudsman to work closely with the Parliamentary Ombudsman and Health Services Ombudsman.

Details relating to the timescale for the implementation of these changes are awaited.

21 June 2006



**The Commission for
Local Administration in England**

Mrs A Shepperd
Chief Executive
Walsall Metropolitan Borough Council
Civic Centre
Darwall Street
WALSALL WS1 1TP

Jerry White
Local Government Ombudsman

Neville Jones
Deputy Ombudsman

Our ref: JRW/B1/KB1
(Please quote our reference when contacting us)

If telephoning contact: Stephen Purser on 02476 820000
E-mail: s.purser@lgo.org.uk

Dear Mrs Shepperd

Annual Letter 2005/06

I am writing 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 in reviewing your own performance you will find this letter a useful addition to other information you hold highlighting how people experience or perceive your services.

This year we will publish the letters on our website and share them with the Audit Commission as there was widespread support from authorities for us to do this. We will wait for four weeks after this letter before making it more widely available in these ways to give you an opportunity to consider and review the letter first. If a letter is found to contain any factual inaccuracy we will reissue it.

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

Complaints received

We received 53 complaints from residents of the borough, five more than last year. However, we expect to see some fluctuation over time and I note that the figures for the last three years do not differ significantly.

The largest number of complaints concerned planning. Social services were the second largest area, with ten complaints received during the year.

The Oaks No 2 Westwood Way
Westwood Business Park Coventry CV4 8JB
Tel 024 7682 0000 Fax 024 7682 0001
DX 702110 Coventry 6
www.lgo.org.uk

Decisions on complaints

During the year there were 56 decisions on complaints. Eighteen of these were premature and I referred them back to the Council for investigation. Another seven complaints were outside my jurisdiction. Twelve complaints were settled locally by the Council and I detail some of these cases later. The remaining 19 complaints were not pursued because no evidence of maladministration was seen, or because it was decided for other reasons not to pursue them.

Reports and local settlements

When we complete an investigation we must issue a report. But there is a significant proportion of investigations that do not need to be completed because a 'local settlement' is reached during the course of the investigation and it is therefore discontinued.

One of the local settlements involved a complaint about non payment of a disabled facilities grant. The complainants had been told orally by an officer that they would have to wait 18 months before a grant could be paid to adapt their bathroom. This conflicts with Government guidance that states a grant should be paid within 12 months. As the complainants did not want to delay the adaptation they had to take out a loan to pay for it. The conversation in which they were advised about the wait for a grant to be paid was witnessed by the MP's constituency assistant. The Council agreed to pay them £2,700, equivalent to the grant that would have been paid, plus £267 for interest payments incurred by the complainants.

Another case involved the treatment of a disabled woman under the fairer charging system for home care and other non residential services. The Council fettered its discretion in refusing to consider some of her disability related costs on the basis that its policy did not allow for them to be taken into account. It also failed to issue bi-monthly invoices as required by its policy, failed to advise the complainant how charges had been calculated when retrospective changes were made and delayed in reviewing her assessment and dealing with her appeal. The Council agreed to reconsider the complainant's request for disability related expenditure to be taken into account, ensure that invoices were sent out in accordance with its policy, explain to the complainant how her costs had been calculated, apologise to her and pay £250 compensation in recognition of her distress and time and trouble.

In a third case human error inputting details from applications for admission to a voluntary aided school onto a computer resulted in the complainant's son, together with three other pupils, being incorrectly sent notices that they had been admitted to the school. There was then a delay before the Council informed the complainant that the place had been withdrawn. The Council apologised to the complainant and assured me that this was a one off error that would not reoccur.

Two local settlement complaints were ones where my investigator did not have to make enquiries of the Council as a suitable settlement had already been achieved as a result of the Council considering the complaint. This is very much to be welcomed.

Overall a total of £3967 was paid in compensation. I would like to record my appreciation of the Council's willingness to put things right when mistakes have been made.

Other findings

In one complaint I referred to the Council as premature it did not contact the complainant as I had asked it to and it had promised to do. Instead it wrote to me after almost three months proposing a settlement. The settlement was acceptable to the complainant and I was able to discontinue my investigation. The Council's complaints process says that complaints will be acknowledged within five working days. I hope the Council will take steps to ensure that all complaints I refer to it as premature are dealt with promptly and effectively; as the majority presently are.

Your Council's complaints procedure and handling of complaints

Your Council's complaints process appears clear and is readily available on the website. Complaints can be made online, a facility increasingly valued by citizens. No issues arose in the complaints I have investigated which relate to the complaints process, other than the case mentioned above.

Training in complaint handling

Our training in complaint handling is proving very popular with authorities and we continue to receive very positive feedback from participants. Over the last year we have delivered more than 100 courses from the range of three courses that we now offer as part of our role in promoting good administrative practice.

Effective Complaint Handling was the first course we developed, aimed at staff who deal with complaints as a significant part of their job. Since then we have introduced courses in complaint handling for front line staff and in handling social services complaints.

All courses are presented by an experienced investigator so participants benefit from their knowledge and expertise of complaint handling.

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

Liaison with LGO

We made enquiries on 19 complaints last year and the average time for responding was 36 days. That is a significant increase on the 25 days recorded for the previous year. It is particularly disappointing given the comments I made in my annual letter last year commending the Council on its improvement in response times. The response time was especially poor for three areas. I received one housing benefit complaint during the year and the Council took 46 days to respond to initial enquiries on it, compared to

an average of 26 days in 2004/5. The average response time to social services complaints also increased from 25 days in 2004/5 to 42 days this year. This can be partly explained by a particularly complicated complaint covering a number of years. I hope that the Council will be able to improve on these response times next year given that delays in responding can only add to complainant's feelings of frustration.

The Council has not been represented on the annual link officer's seminars I hold each year and an officer may wish to attend the next one in November. In addition, if it would help for Mr Purser, the Assistant Ombudsman, to visit the Council to give a presentation about how we investigate complaints I would be happy to arrange this.

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 would again very much welcome any comments you may have on the form and content of the letter.

I would again be happy to consider requests for myself or a senior colleague to visit the Council to present and discuss the letter with councillors or staff. We will do our best to meet the requests within the limits of the resources available to us.

I am also arranging for a copy of this letter and its attachments to be sent to you electronically so that you can distribute it easily within the Council and post it on your website should you decide to do this.

Yours sincerely



J R White
Local Government Ombudsman

Enc: statistical data covering a three year period;
a note to help the interpretation of data and
a training leaflet

Complaints received by subject area	Education	Highways	Housing (not incl. HB)	Housing Benefit	Local Taxation	Other	Planning	Social Services	Total
01/04/2005 - 31/03/2006	1	1	6	4	5	10	16	10	53
2004 / 2005	3	8	8	1	3	8	11	6	48
2003 / 2004	4	5	12	1	0	11	9	7	49

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	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2005 - 31/03/2006	0	12	0	0	14	5	7	18	38	56
2004 / 2005	0	13	0	0	11	11	6	11	41	52
2003 / 2004	0	7	0	0	22	5	7	10	41	51

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
01/04/2005 - 31/03/2006	19	36.1
2004 / 2005	29	24.9
2003 / 2004	30	28.8

Average local authority response times 01/04/2005 to 31/03/2006

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	53.2	25.3	21.5
Unitary Authorities	41.3	34.8	23.9
Metropolitan Authorities	41.7	30.5	27.8
County Councils	55.9	26.5	17.6
London Boroughs	39.4	39.4	21.2
National Park Authorities	100.0	0.0	0.0