
REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

Responsible Cabinet Member - Councillor Bill Dixon, Leader

Responsible Director - Paul Wildsmith, Director of Resources

SUMMARY REPORT

Purpose of the Report

1. To provide Members with an update of the outcome of cases which have been considered by the Local Government Ombudsman (LGO) and to indicate any points for particular attention since the preparation of the report for the meeting of Cabinet on 19 July 2011.

Summary

2. This report sets out in abbreviated form the outcome of matters which have been the subject of complaints to the LGO since the last report to Cabinet on which the LGO has come to a conclusion. The report considers whether the authority needs to take any action as a result of the findings of the LGO.

Recommendation

3. It is recommended that the contents of the report be noted and that in future these reports be presented on a six monthly basis.

Reasons

4. The recommendation is supported by the following reasons :-
 - (a) It is important that Members are aware of the outcome of complaints made to the LGO in respect of the Council's activities.
 - (b) The contents of this report do not suggest that further action, other than detailed in the report, is required.

**Paul Wildsmith
Director of Resources**

Background Papers

Note: Correspondence with the LGO is treated as confidential to preserve anonymity of complainants.

S17 Crime and Disorder	This report is for information to members and requires no decision. There are no issues in relation to Crime and Disorder.
Health and Well Being	This report is for information to members and requires no decision. There are no issues in relation to Health and Wellbeing.
Sustainability	This report is for information to members and requires no decision. There are no issues in relation to Sustainability
Diversity	This report is for information to members and requires no decision. There are no issues in relation to Diversity.
Wards Affected	This report affects all wards equally.
Groups Affected	This report is for information to members and requires no decision. There is no impact on any particular group.
Budget and Policy Framework	This report does not recommend any change to the Budget or Policy Framework.
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	This report contributes to our understanding of target NI 4, the number of people who feel they can influence decisions in their locality.

MAIN REPORT

Information and Analysis

5. Cabinet at its meeting on 14th May, 2002 considered a report on the outcome of cases referred to the LGO during the Municipal Year 2001/02 and resolved that at each meeting of Cabinet a similar report should be submitted on the outcome of cases since the previous meeting of Cabinet. It was subsequently decided that this report would be provided on a quarterly basis. It is now recommended that due to the small number of cases being referred and the issues arising that it is appropriate to reduce the number of reports to six monthly. This would therefore be the last quarterly report.
6. In April 2011 the LGO introduced a new IT system for case management and revised the brief descriptions of their decisions. The different decision descriptions are intended to give a more precise representation of complaint outcomes and add further transparency to the work of the LGO.
7. Appendix A provides further details of the new decision descriptions.
8. In the second quarter of 2011/12, 3 cases were the subject of decision by the LGO.
9. The outcome of cases on which the LGO reached a view is as follows :-

Finding	No. of Cases
Not in Jurisdiction & Discretion not Exercised	1
Not to Initiate an Investigation	1
Ombudsman's Discretion	1

Analysis of Findings

10. The opportunity is normally taken to analyse the areas of the Council's functions where complaints have arisen. It seems appropriate to do that in order to establish whether there is any pattern to complaints received or whether there is a particular Directorate affected or a type of complaint which is prevalent. If there were a significant number of cases in any one particular area, that might indicate a problem which the Council would seek to address.
11. Not in Jurisdiction & Discretion not Exercised – This complaint concerned a parking matter. The complainant appealed a parking ticket but was initially unsuccessful. Rather than pursue the appeal to the Traffic Penalty Tribunal the complainant decided to pay the parking ticket. Subsequently the complainant witnessed a Council vehicle receive a ticket in the same place and discovered, through a Freedom of Information Request, that the Council officer had successfully appealed the ticket. While the Council felt this in itself did not cause the complainant any injustice, in the interest of transparency and achieving an amicable resolution the Council did accept the complaint. The complainant remained dissatisfied with the Council's response and referred the matter to the LGO.

The LGO took the view that they would not investigate the matter as a separate right of appeal existed. Furthermore the LGO concluded that even if this appeal right did not exist they did not consider that the LGO would investigate, as for the LGO to investigate they must be satisfied that there is evidence of maladministration on the Council's part which has

caused an injustice. From the information provided, the LGO felt the Council had provided a reasonable explanation as to why the Council officer's notice was waived under the provisions of its Parking Enforcement Policy. In the decision letter the LGO made the point that even if there been evidence that this decision was maladministration the fact that someone else benefitted does not in itself cause an injustice to the complainant and as such the LGO was doubtful whether maladministration or a direct injustice arising from any maladministration existed in this case.

12. Not to Initiate an Investigation – This matter concerned an educational appeal and as such was not investigated through the Council's complaint procedure(s). The LGO's view was that although at the time the events occurred the school was a body within their jurisdiction the school had subsequently converted to an academy. Given that no provisions had been made for the transfer of liability for the LGO to investigate academies they decided not investigate the matter. The LGO further clarified this position advising that as there is no longer a legal body in existence for the LGO to investigate, report the decision on the complaint to or that would be responsible for acting on any recommendations made there was not a reasonable likely prospect of a successful outcome and it would not be a good use of resources to pursue the matter.
13. Ombudsman's Discretion – This complaint was in relation to Development Control and in particular to a planning permission originally dating back to 2005. There is an extensive history to this matter and in 2006 the LGO published a public report against the Council. In this case while the LGO did acknowledge there may have been some things the Council could have done better they felt there was insufficient evidence of injustice for the complaint to be pursued. Moreover, the LGO felt that a further investigation at this late stage of the development was unlikely to achieve anything meaningful.

Outcome of Consultation

14. The issues contained within this report do not require formal consultation.