
REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

Responsible Cabinet Member - Councillor John Williams, Leader

Responsible Director - Paul Wildsmith, Director of Corporate Services

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 1 December 2009.

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.

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 Corporate Services

Background Papers

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

Catherine Whitehead : Ext. 2306/TAB

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.
Efficiency	There no implications for efficiency in this report.

MAIN REPORT

Information and Analysis

5. Cabinet at its meeting on 14 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 agreed at the Cabinet meeting on 1 December 2009, that the reporting period would be amended to quarterly.
6. Since the preparation of the report for the meeting on 6 October 2009, five cases have been the subject of decision by the LGO.
7. The outcome of cases on which the LGO reached a view in the current reporting period is as follows:

Finding	No. of Cases
Local Settlement (LS)	2
Maladministration Causing Injustice (MI)	0
Maladministration No Injustice (MNI)	0
No Maladministration (NM)	1
No or Insufficient Evidence of Maladministration (NIEM)	0
Ombudsman's Discretion (OD)	1
Outside Jurisdiction (OJ)	1
Premature Complaint (PC)	0

Local Settlement

8. This heading relates to cases where the LGO after investigation suggests that the complaint might be resolved locally without a formal report being made and suggests how the matter might be drawn to a conclusion.

Maladministration No Injustice

9. This heading was introduced by the Local Government and Public Involvement in Health Act 2007. It relates to cases where the Council has made an error without causing an injustice. The purpose is to ensure that the Council rectifies errors even if no one has suffered in the particular case.

No or Insufficient Evidence of Maladministration

10. This heading is self-explanatory. The LGO will have carried out preliminary investigations but concluded that there is no or insufficient evidence of maladministration and no further action will be taken.

Ombudsman Discretion

11. This heading covers those cases where the LGO decides not to investigate the case further for any other reason and exercises her discretion to close the file.

Outside Jurisdiction

12. A matter under this heading is one where the LGO for one of a number of technical reasons is not empowered to take action, eg there is a remedy through a normal Court of Law or the matter relates to an employment issue.

Premature Complaint

13. This heading covers matters where the Local Authority has not had the opportunity to deal with a complaint through its own internal complaints procedures; the LGO will normally wait for that procedure to be carried out before she considers investigating the matter herself.

Analysis of Findings

14. 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.
15. There are two cases that involved local settlement. The first concerned a tree dropping leaves on to a neighbouring property. The complainant felt the tree was damaging his property but the Ombudsman accepted that leaf fall is the responsibility of the property owner, however the Council did agree to pay for a structural engineer's survey and that the Council would take appropriate action following receipt of the survey. There is an ongoing dispute in relation to the complaint.
16. The second complaint concerned a housing and child care matter. The Council's Children Services failed to make an appropriate referral to Housing Services, and Housing Services incorrectly assessed the priority. As a result the complainant suffered a delay in receiving appropriate accommodation. The council has agreed to pay compensation of £2,900 plus £25 per week until the offer of appropriate accommodation is made. The Council has also agreed to implement a formal referral procedure between Children's Services and Housing; to review current procedures for considering housing need in these cases and to review training for housing officers in the assessment of priority for housing.
17. The Council has received one complaint classed as outside the jurisdiction of the Ombudsman. This complaint concerned a settlement offer from the Council in relation to compensation. The Ombudsman will not normally deal with cases where another legal process is readily available to the complainant as in this case.
18. The Council has received one complaint classed as ombudsman's discretion. This case concerned damage to property alleged to have been caused by weed killer sprayed by the Council. The Ombudsman was satisfied with the offer made by the Council and felt that the complaint should not be investigated further.
19. The Council received one complaint classed by the Ombudsman as no or insufficient evidence of maladministration. This case concerned an alleged change of use in relation to a residential care home. The Ombudsman felt that the Council had considered the matter

carefully and did not find administrative fault in the council's decision. There were in all over 50 complaints in relation to this issue. This one was referred to the Ombudsman.

20. There are no issues arising from these complaints, other than those detailed, which suggest that there are problems that the Council needs to address.

Outcome of Consultation

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