
REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

Responsible Cabinet Member - Councillor John Williams, Leader

Responsible Director - Paul Wildsmith, Director of Corporate Services

Purpose of Report

1. To provide Members with an update of the outcome of cases which have been considered by the Local Ombudsman and to indicate any points for particular attention and/or referral to the Standards Committee since the meeting of Cabinet on 5th December, 2006.

Information and Analysis

2. Cabinet at its meeting on 14th May, 2002 considered a report on the outcome of cases referred to the Ombudsman 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. Since the meeting on 7th November, 2006 four cases have been the subject of decision by the Ombudsman.
3. This report sets out in abbreviated form the outcome of matters which have been the subject of complaints to the Local Ombudsman by individuals and on which the Local Ombudsman has come to a conclusion. The outcome of the four cases on which the Ombudsman reached a view in the current reporting period is as follows :-

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

Outside Jurisdiction

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

Premature Complaint

2. 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 Ombudsman will normally wait for that procedure to be carried out before she considers investigating the matter herself.

No or Insufficient Evidence of Maladministration

3. This heading is self-explanatory. The Ombudsman 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

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

Local Settlement

5. This heading relates to cases where the Ombudsman 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.

Analysis of Findings

6. 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.
7. Under the heading of premature complaints, there were two complaints that the Ombudsman put into this category. The first of these relates to a Children's Services issue and the details of that complaint are therefore confidential. As the complaint has not been investigated by the Council, the Ombudsman has classed this as a premature complaint.
8. In the second case the complainant had already made a complaint which was reported to Cabinet on 5th December. The investigator concluded on that occasion that there was 'no or insufficient evidence of maladministration'. In response to that decision the complainant has raised a number of new issues, which the Ombudsman has classed as a premature complaint.
9. The complaint classified as 'no or insufficient evidence of maladministration' related to a planning matter, in particular the redevelopment on the site of the White Horse Hotel. The investigator concluded that 'the report to the Planning Committee which determined the application is lengthy and detailed. It sets out those matters which the members of the Planning Committee needed to know and explains why officers took the view that approval was the proper decision.' The investigator also concludes that she is satisfied that the Planning Committee had enough information before it to come to a decision. She recognises that the complainant profoundly disagrees with the decision but that this is not

evidence that something has gone wrong.

10. The complaint classified as ‘outside jurisdiction’ related to a complaint concerning the Pedestrian Heart Scheme and the consequences of an incident involving damage to a gas main. The investigator concluded that the complaint centred on the cost of the project and the way which it had been managed, and only affected the complainant as a Council Tax Payer. The investigator took the view that the District Auditor’s responsibilities related to any financial irregularities in the way in which the Council spends public money and the complainant has referred his complaint to the District Auditor, in the case of Darlington this is Price Waterhouse Coopers.
11. The complainant also complained that he should not have been provided with details of the Ombudsman by the Council if the complaint was outside the Ombudsman’s jurisdiction, however the Investigator concluded that it was right for the Council to provide this information, as it is for the Ombudsman to consider whether she has the jurisdiction to deal with the complaint, not the local authority.
12. There are no issues arising from these complaints which suggest that there is a problem that the Council will need to address.

Outcome of Consultation

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

Legal Implications

14. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

15. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

16. The issues contained within this report do not represent change to Council policy or the Council’s policy framework

Decision Deadline

17. For the purpose of the ‘call-in’ procedure this does not represent an urgent matter.

Recommendation

18. It is recommended that the contents of the report be noted.

Reasons

19. The recommendation is supported by the following reasons :-

- (a) It is important that Members are aware of the outcome of complaints made to the Local Ombudsman in respect of the Council's activities.
- (b) The Contents of this report do not suggest that further action is required.

Paul Wildsmith
Director of Corporate Services

Background Papers

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

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