
REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

Responsible Cabinet Member - Councillor John Williams, 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 11 January 2010.

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 recommendations are 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.

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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.
Carbon Impact	This report is for information to members and requires no decision. There are no issues which affect the Carbon Impact.
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	The report is about the effective management of the authority, driving down complaints and tackling the causes of complaints builds capacity but has no specific efficiency recommendations.

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.
6. Since the preparation of the report for the meeting on 5 October 2010, 6 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)	1
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, e.g. 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 is one case where there was no or insufficient evidence of maladministration. In this case the Council assessed the cutting back of a hedge on a highway. The complainant was unhappy about the decision not to cut it back further. The Ombudsman concluded that the complaint did not warrant investigation as the decision by the Council was made without evidence of maladministration and the Ombudsman cannot look into the decision itself.
16. One case involved a planning matter in which the ombudsman's investigator felt investigation was not appropriate as it would not be possible to show, even if maladministration was established, that it would have resulted in a different outcome. She therefore used discretion not to investigate the complaint.
17. Two cases involved local settlement. In the first case the complainants wanted a dropped kerb outside their property. The Council's view was that this would involve the destruction of a tree and it was not within the policy to destroy a tree. The complainants stated that they had a disabled child and the Ombudsman decided that the Council had not properly considered the disability as part of their consideration. The settlement was therefore to reconsider the complaint in the light of that information and to pay the complainants £250.
18. In the second case the complainant had said that she had been complaining about lack of heating since 2007 and requested that gas central heating be fitted in her council housing. By the time the complaint progressed to the ombudsman central heating had been fitted and the ombudsman did not feel there was any merit in pursuing the complaint.
19. The Ombudsman deemed one case to be outside her jurisdiction. The case involved care proceedings. Those aspects that fell under the complaints procedure had been properly investigated by the Council and the Ombudsman was satisfied there was not evidence of maladministration. In relation to the main elements of the complaint these had been decided by the courts and were therefore outside the jurisdiction of the Ombudsman.

20. A case involving an Education Appeal and the Council's decision to grant planning permission for an estate was found to involve no maladministration. The ombudsman concluded that the complaint was about whether the council should spend money on transport or expanding schools, and this is a judgement for the Council's decision makers and not a matter the ombudsman can investigate.
21. There are no issues arising from these complaints, other than those detailed which suggest that there is a problem that the Council will need to address.

Notice of Changes to Classifications

22. The council has received notification from the Ombudsman of the intention to review the complaint categories. The changes to complaint categories introduce eight main categories, each with a varying number of sub-categories. The main categories are:
 - (a) Environmental services, public protection and regulation
 - (b) Highways and transport
 - (c) Housing
 - (d) Planning and development
 - (e) Adult care services
 - (f) Benefits and tax
 - (g) Education and children's services
 - (h) Corporate and other services
23. The Ombudsman has also decided to change the way she describes her decisions. The published description of decisions will not change significantly. The term 'local settlement' will no longer be used and is replaced by 'investigation discontinued – injustice remedied' or 'investigation complete, satisfied with authority's actions, not appropriate to report'.
24. The decision descriptions that she intends to publish under Part 3 of the Local Government Act are:
 - (a) Out of jurisdiction
 - (b) Not to initiate an investigation (formerly Ombudsman's discretion)
 - (c) To discontinue investigation injustice remedied (formerly local settlement)
 - (d) To discontinue investigation (formerly Ombudsman's discretion)
 - (e) Investigation complete, satisfied with authority's actions, not appropriate to issue report
 - (f) Investigation complete – report issued
25. This provides a clear distinction between decisions:
 - (a) not to start an investigation
 - (b) not to pursue an investigation that has been started, and
 - (c) when an investigation has been completed.
26. It is important for people who complain and for effective use of public resources that investigators make a sound and justified decision about whether or not to start an investigation as quickly as possible. She asks that the council responds quickly to preliminary requests for information in order to meet this objective.

Outcome of Consultation

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