
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 18th September, 2007.

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 18th September, 2007 eight 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 eight 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)	1
Outside Jurisdiction (OJ)	
Local Settlement (LS)	
No or Insufficient Evidence of Maladministration (NIEM)	4
Premature Complaint (PC)	3

Outside Jurisdiction

4. 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

5. 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

6. 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

7. 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

8. 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

9. 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.
10. Three of the complaints were classified as Premature Complaints. The first is from a complainant who says he received advice from the planning section that planning permission was not required for the installation of UPVC windows in a listed building. The complainant says that several years after installing the windows the planning section threatened enforcement proceeding. The second matter concerns a complaint that the Council overcharged a resident for the cost of installing a vehicular access ramp in 2005, but then subsequently charged other residents a lower sum for the same type of work undertaken under the 'lets get cracking' campaign. In relation to the third complaint it was alleged that a decision to vary a S.106 planning agreement with a developer was improper as it financially disadvantaged the residents of Darlington. In all these cases the Council will be able to investigate the complaints using the complaints procedure. It is not therefore appropriate to comment at this stage.

11. There are four complaints that were classified, following investigation by the Ombudsman to be in the category of, No or Insufficient Evidence of Maladministration. The first relates to a dispute between private landowners about rights of access on and maintenance of, an unadopted bridleway. The Ombudsman found no evidence of misadministration. The second complaint was from the parent of a child whose admission appeal for her child to gain a place at Hurworth School had been refused. The Ombudsman felt that the Admissions Appeal had been conducted properly and has not found any evidence of misadministration. The third complaint was from a Council tenant who raised a number of matters ; that an incorrect housing benefit assessment had been made, that water rates were improperly charged, about possession proceedings taken by the Council for rent arrears and about the state of repair at the property. The Ombudsman found no evidence of misadministration. The fourth complaint was from the parent of a child whose admission appeal for her child to gain a place at Reid Street Primary School had been refused. The Ombudsman felt that the admissions appeal was conducted properly and did not find any evidence of misadministration.
12. There was one complaint classified as Ombudsman's Discretion. This related to a complaint that the minutes of a multi agency partnership meeting had not been fully accurate and had contained personal comments and statements. An apology had been offered and the Ombudsman determined as a result that further investigation was not warranted. In future more concise minutes will be written and only circulated after the Chair has approved them.
13. 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.

Outcome of Consultation

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

Legal Implications

15. 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

16. 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

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

Decision Deadline

18. For the purpose of the 'call-in' procedure this does not represent an urgent matter.

Recommendation

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

Reasons

20. 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.

Catherine Whitehead : Ext. 2306
TAB