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**REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN**

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**Responsible Cabinet Member - Councillor John Williams, Leader**

**Responsible Director - Paul Wildsmith, Director of Corporate Services**

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**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 Ombudsman and to indicate any points for particular attention since the preparation of the report for the meeting of Cabinet on 3 March 2009.

**Summary**

2. This report sets out in abbreviated form the outcome of matters which have been the subject of complaints to the Local Government Ombudsman (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 Local Ombudsman in respect of the Council's activities.
  - (a) 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 Ombudsman 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.

## 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 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 preparation of the report for the meeting on 3 March 2009 six cases have been the subject of decision by the Ombudsman.
6. The outcome of cases on which the Ombudsman reached a view in the current reporting period is as follows :-

<b>Finding</b>	<b>No. of Cases</b>
Maladministration causing injustice (MI)	
No Maladministration (NM)	
Ombudsman's Discretion (OD)	
Outside Jurisdiction (OJ)	1
Local Settlement (LS)	1
No or Insufficient Evidence of Maladministration (NIEM)	4
Premature Complaint (PC)	

#### *Outside Jurisdiction*

7. 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*

8. 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*

9. 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*

10. 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***

11. 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**

12. 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.
13. There are four matters which have been investigated in which the Ombudsman has found that there is no or insufficient evidence or maladministration. One of these concerned noise nuisance in a housing property. The investigator concluded that she had not found any evidence to support the allegation that the Council has not acted properly in investigating the complaint about noise nuisance. The second concerned investigations into alleged blockages in a private sewer. The Ombudsman's investigator has concluded that she cannot find that the Council has acted with maladministration. The third is a planning matter in which the Ombudsman has concluded that there is no evidence of maladministration by the Council in relation to the matters complained about. Finally there is a matter concerning possible damage caused by a tree. The investigator's view is that the Council cannot be held responsible for the damage caused by the tree because the Council does not own the land and it is not clear who does own the land.
14. There is one case which the Ombudsman has classed as Outside Jurisdiction. This is a planning matter in which the complainant has exercised a right of appeal and the Ombudsman has therefore decided not to investigate this matter as it is outside her jurisdiction to investigate a matter the subject of a legal appeal. The complainant also raised a complaint against a member of the Council. The Council's Standards Committee has decided not to investigate that complaint.
15. There is one case which is a local settlement. The case concerns provision of Adult Social Care Services. The Council had conducted a detailed investigation at Stage 3 of the Complaints Procedure and had made a financial offer as a result of the recommendations of that investigation. The Ombudsman requested that the Council increase its offer but concluded that there was no further injustice that warranted further investigation. There were a range of issues raised by the Stage 3 investigation which the Director has responded to and steps have already been taken to address these issues.
16. 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**

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