
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 13th November, 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 13th November, 2007 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)	2
Outside Jurisdiction (OJ)	1
Local Settlement (LS)	
No or Insufficient Evidence of Maladministration (NIEM)	
Premature Complaint (PC)	1

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. One case was classified as Outside Jurisdiction. This case concerned damage to property caused by tree roots. The Council's insurers had indicated their position, and the property owner had the right to pursue the matter through the courts. The Ombudsman acknowledged that her role was not to decide matters of liability which are best left to the courts.
11. One complaint relating to Environmental Health was classified as a Premature Complaint because it had not been investigated under the Council's complaints procedure. The complaint has now been investigated and the Council has apologised for the errors made.
12. Two cases were classified as Ombudsman's Discretion. The first case involved the loan of a steam engine to the Darlington Railway Museum in 1978. The Ombudsman has decided not to pursue a complaint about five issues. Some of the issues related to the original agreement and some to the behaviour of the Council during the period of the loan which ended in 2005. The final issue relates to the way the loan was brought to an end. The Ombudsman concludes that there is very little that an investigation by the Ombudsman could achieve for the complainants. In particular given the passage of the time since the earlier events, I think it inevitable that any investigation would be inconclusive.
13. The second case concerns a complaint by a couple whose son is in receipt of care services. The Ombudsman has used her discretion to decide not to investigate the complaints, but to

allow the complainants the opportunity to take the matter through the Council's complaints procedure.

14. 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

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

Legal Implications

16. 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

17. 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

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

Decision Deadline

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

Recommendation

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

Reasons

21. 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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