
REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

Responsible Cabinet Member - Councillor John Williams, Leader

Responsible Director - Paul Wildsmith, Director of Corporate Services

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 30 March 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 recommendation is 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 Corporate Services

Background Papers

Note: Correspondence with the LGO 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 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 30 March 2010, **eight** 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)	0
No or Insufficient Evidence of Maladministration (NIEM)	0
Ombudsman's Discretion (OD)	2
Outside Jurisdiction (OJ)	2
Premature Complaint (PC)	2

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 are two cases of local settlement. The first of these was an adoption case. The Complaint concerned the preparation of the children for adoption and the management of foster carers. The Council agreed to make a payment into a trust fund of £4500 for each child and a further payment of £1000 compensation to the adoptive parents. The case has been resolved by way of local settlement.
16. The second case involved leaves causing damage to a property. A dispute arose as to the cause of the damage and whether the Council as owner of land with nearby trees was responsible for damage caused by leaves. It was agreed that the Council would carry out an independent survey to establish the cause of the damage to settle the matter. The survey did not conclude that the Council was responsible for the damage.
17. There are two cases of Ombudsman's discretion. One is a planning matter which the Ombudsman accepted the Council had not been given the opportunity to resolve through the complaints process. The second concerns the records of the Scrutiny meeting relating to the Pedestrian Heart project. The Ombudsman felt that the main complaint about the project (see below) was outside her jurisdiction and she would therefore not investigate associated issues.
18. There were two complaints outside the jurisdiction of the Ombudsman. One concerned a complaint which had already been before an inspector on appeal. The second relates to expenditure on the Pedestrian Heart project in which the Ombudsman felt that financial issues are a matter for the external auditors and was therefore outside her jurisdiction.

19. There were two premature complaints both relate to planning matters.

Outcome of Consultation

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