

DECISION-MAKER		STANDARDS AND GOVERNANCE COMMITTEE	
SUBJECT		ANNUAL REPORT ON LOCAL GOVERNMENT OMBUDSMAN COMPLAINTS 2008-09	
REPORT OF:		SOLICITOR TO THE COUNCIL	
DATE OF DECISION		23 SEPTEMBER 2010	
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STATEMENT OF CONFIDENTIALITY

N/A

SUMMARY

This report summarises performance and issues arising out of the Annual Letter for 2009-10 from the Commission for Local Administration in England (Ombudsman). Separate reports will also be provided to Standards and Governance Committee in relation to the Council's performance under its Corporate Complaints Procedure and the Statutory Children's and Adult's social care complaints procedures (both of which also now report compliments and service comments where appropriate) as both of these ultimately impact upon and form links with the Council's relationship with the Ombudsman.

RECOMMENDATION:

- (i) That the report be noted.

REASONS FOR REPORT RECOMMENDATIONS

1. To update Members on issues and performance arising out of complaints made by the public to the Ombudsman during 2009-10. Identifying these issues assists the Council in understanding where services delivered by the Council in the past year have fallen below public expectation in order to improve service delivery to its citizens.

CONSULTATION

2. This report is presented to Standards and Governance Committee for consultation purposes. The Annual letter has been shared with both the Chief Executive and the Solicitor to the Council. The Solicitor to the Council and the Corporate Legal Team administer all Local Government Ombudsman complaints within the Authority on behalf of the Chief Executive and act as a single point of contact for the Ombudsman in relation to areas of concern, advice and training.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. N/A

DETAIL

4. Attached to this report is the Local Government Ombudsman's Annual Letter for 2009-10 (Appendix 1).

5. In 2008/09 the Ombudsman introduced significant changes in the way the Ombudsman investigates complaints against Council's. The first years statistics under these arrangements were reported to Standards and Governance Committee on 24th September 2009. Changes included the coming into force of key elements of the Local Government & Public Involvement in Health Act 2007, which changed a number of areas of jurisdiction for the Ombudsman as well as changed the way they are able to receive and deal with complaints. We now have one previous year of operating under the revised arrangements against which this years performance may be judged. The method of delivery and reporting behind those statistics is however, still bedding in and it may be some time before a consistent level against which to benchmark performance is truly achieved. Initial assessments suggest the Council's remains a strong performer in this area, with no major or underlying trends causing concern.
6. The introduction of a first contact centre, the 'LGO Advice Team', appears to be working well in filtering out minor and repetitive complaints that do not merit investigation or can be dealt with locally by the Council's concerned once they know about them. The advice team also provides general advice and assistance to members of the public before their case is allocated for investigation and this has helped individuals to focus on what they want to achieve from a complaint rather than the 'process' of making a complaint in and of itself.
7. It should also be noted however that the introduction last year of complaints being made by email and orally over the telephone or in person (as opposed to formally in writing) has – as anticipated - resulted in an increase in the number of contacts received by the LGO advice team. This has not however led to a disproportionate increase in the number of matters found to be serious or referred for investigation, which demonstrates that filtering processes and advice services are working well in the main.
8. Adult Social care complaints procedures have changed from 1st April 2009, however as yet the anticipated increase in frequency of complaints around this area to reflect the faster track to the LGO has not materialised to any great extent.
9. Further changes are due to come into force in 2010 as the Ombudsman's jurisdiction to cover complaints about schools in trial areas is extended across the Country , with all schools anticipating being covered by 2011. Complaints about individuals who self-fund private social care needs also now fall within the jurisdiction of the Ombudsman but this area is still developing and complaint statistics for how this is bedding in are not yet available.
10. Southampton City Council continues to perform well, however, a couple of key points are to be noted from the Local Government Ombudsman's letter:

- a. The Ombudsman received a total of 53 complaints, a slightly lower number than in the previous year (59), against Southampton City Council. As indicated in his letter, there are fluctuations from year to year, but the consistency achieved by the Council is worth noting given the difficult decisions faced around use of resources, the national and local economic downturn and the increasing pressure on Council's to deliver efficiencies in services across the board and overall the number of complaints does remain low. 15 of these related to Housing matters (18 last year) and 6 of the complaints received concerned Planning / Building Control (down from 10 last year), with the remainder covering a range of services. This remains consistent with previous years, with Housing and Planning & Building control also the highest area in which complaints are received nationally and regionally. As front line services that significantly affect a large number of individuals this is not unusual or cause for undue concern and the small reduction in complaints received (and the complexity of these matters) is a positive outcome.
- b. 8 of the complaints were referred back as premature, compared to 20 last year. Signposting and dealing with premature complaints is an area in which the Ombudsman has criticised the Council in the past particularly in relation to availability of the complaints procedure on the website and in contact centres and the Council's improvement in this area is an extremely positive sign that the changes introduced to complaints reporting mechanisms in 2009 are now starting to reap benefits, with more issues being resolved locally in consultation with the complainants without their feeling the need to go direct to the Ombudsman to achieve satisfaction. A further 7 cases were dealt with by way of 'advice' from the LGO advice team, slightly down on the 15 cases reported last year when the service was first introduced. The introduction of the advice team continues to contribute to the number of complaints that would otherwise have been deemed 'outside jurisdiction' or for which alternative remedies are available being withdrawn or not proceeded with, which has enabled the Ombudsman and Council's to focus on issues of greater concern.
- c. 33 complaints were referred to the Ombudsman's investigation teams and have either be determined or carried over to this year due to the complexity of the issues involved. 28 complaints were determined during 2009/10. 7 were discontinued at the Ombudsman's discretion (resulting in no finding). 8 complaints were found to be without fault (no maladministration or injustice). 6 further complaints was deemed to be outside the Ombudsman's jurisdiction.

- d. The letter contains details of the 7 complaints that were settled locally (compared to 6 last year). The Solicitor to the Council settles complaints locally for a variety of reasons, not all of which are associated with the Council's "liability" in respect of a complaint – on occasions, clearly, the Council will get things wrong, and it is right when that happens to settle the complaint locally without having to put the complainant through further distress and anguish and, indeed, the Council to further cost. On occasion, it is appropriate to settle a complaint because of the complexity of the matter, the costs of a comprehensive investigation and/or the fact that sometimes the full facts will be unclear, and an appropriate and suitable (and cost effective) way forward has to be found. Local settlements cost the Council a total of £4906 in 2007/08, £1,425 in 2008/9 and £4525 in 2009/10 (£3500 of which related to a single complaint).
- e. The single highest payment was, as referred to above, for £3,500 which related to a failure to properly assess the needs of a young lady with learning disabilities on reaching the age of 16 together with significant delays in dealing with both the assessment and children's care complaints processes. The Council also agreed to prepare and fund a package of measures to support the young lady via a Pathways Plan for her future care and learning needs..
- f. Additional complaints of note were received in relation to Housing sales / Leaseholds repairs (£200 compensation + assessment of repairs needed) and Council Tax administration (3 cases with compensation totalling £775 and a review of procedures for processing payments over holiday periods and instruction of Bailiffs).
- g. It should be noted that it took the Council on average 21.4 days to respond to the Ombudsman's first enquiries, which is consistent with the figure of 21.1 achieved in 2008/9, well within the target period of 28 days set by the Ombudsman. On only one occasion was a response submitted outside the 28 days (31 days in relation to an education matter, with the response to the complaint being submitted on time but the CD of supporting information being misplaced and a duplicate required, which took the Council over the normal deadline for response). Of particular note is the very fast response to public finance / Council Tax matters which averaged 14.5 days for responses during the year. The Corporate Legal Team would particularly wish to commend their colleagues in the Resources Directorate for their excellent assistance in meeting these targets and the considered responses received / willingness to correct perceived errors in relation to complaints in this area. The Council is once again congratulated by the Ombudsman on its performance in this regard.
- h. The Solicitor to the Council and Corporate Legal Team continues to provide ad-hoc advice and training on dealing with complaints and responding to Ombudsman enquiries where required (mainly through internal resources) and will review the need to deliver training in partnership with the Ombudsman in Autumn 2010, resources permitting. Formal training on responding to Ombudsman complaints and investigating complaints generally was last held in 2007/8.

11. In previous years, Standards & Governance Committee requested a breakdown of how this performance measured against the Council's statistical neighbours. While the Ombudsman does not publish direct comparison's (as the nature of Authorities and the services they deliver varies considerably within a geographic area), it has been possible to look at the statistics for the individual unitary authorities within our statistical neighbours (Audit Commission Comparator Authorities list) and provide a summary of performance against them. These Authorities comprise Bristol, Brighton & Hove, Plymouth and Portsmouth. Key statistics are set out in the table below:

12.

Authority	Total Complaints (Excluding Premature)	Mal rep	LS	N M	OD	OJ	Total Compensation	Days to Respond (target 28 days)
Brighton & Hove	67	1	17	32	10	7	Not Reported	32.3
Bristol	96	0	19	42	17	18	£17,680	25.1
Plymouth	48	0	11	25	5	7	£1,375	25.1
P'mouth	28	0	6	15	4	3	£150	25.1
So'ton	28	0	7	8	7	6	£4,525	21.4

Mal Rep = Maladministration Reports

LS = Local Settlements

NM = No Maladministration / No fault

OD = Ombudsman's Discretion to discontinue

OJ = Outside Jurisdiction

13. The total number of new complaints *received* (rather than determined) by each Authority in 2009/10 broken down by subject area is as follows:

14.		Soc Serv	Educ	Hsg	Bens	Finance & Tax	Plng & BC	Transp & Highw	Other (incl Waste)	Total
	Brighton	5	10	10	2	5	3	7	9	51
	Bristol	13	4	18	4	4	15	3	20	81
	Plymouth	3	1	3	4	3	7	3	16	40
	P'mouth	6	3	3	0	0	4	5	3	24
	So'ton	2	6	7	0	6	4	2	6	33

15. It should be noted that in the majority of the above Authorities, the top two areas in which complaints were received (excluding 'Other' which covers a number of misc complaint areas) were Planning & Building Control and Housing. This demonstrates that, as stated in paragraph 10a, Southampton's performance in these areas remains broadly comparable with other Authorities and complaints tend to arise in these areas consistently regardless of the type of authority or geographical area. Third place is generally shared with Education / Admission Appeals or Public Finance and Council Tax. Again, this remains consistent with the position in Southampton and numbers also remain comparable.
16. Of the 5 Authorities, only Brighton & Hove received a maladministration report during the previous year. All of the Authorities (except Brighton & Hove) improved on their response time or attained similar response time to last year. Southampton remains the fastest responder. Of all of the Authorities, Portsmouth has demonstrated the greatest improvement this year, with an overall reduction in the number of complaints received and remarkably only paying out £150 in compensation to complainants referred to the LGO during 2009/10.
17. Notable cases reported against the other Authorities include a marked increase in waste collection and waste management complaints in two Authorities (Brighton and Plymouth - one outsourced, one provided by an in-house provider) with complaints relating to a lack of enforcement policy for bins on pavements and taking over 10 weeks to respond to LGO enquiries in one case. In addition both Brighton and Bristol had a number of complaints relating to adult care assessments and co-ordination of partnership working between the Council's and local NHS Trusts. Bristol also reported a high number of planning complaints (20 – 15 new and 5 carried over from a previous year) for which substantial compensation was payable. As planning complaints tend to be compensation on loss of value of a property, payments included £5,000, £2,200 and 2 payments of £1,900 for loss of residential values caused by mistakes in determining third party planning applications that unjustly intruded on neighbouring properties. Bristol also reported a significant increase in complaints relating to the way the Council responded to complaints about anti-social behaviour, particularly in relation to delays in addressing the causes of ASB and keeping residents informed of progress on matters.

18. Full details of all of these cases (and the annual letters relating to these authorities) can be reviewed on the Ombudsman's website at www.lgo.org.uk along with a digest of cases, fact sheets on service specific areas, special interest reports and a summary of statistics by area and authority type should the Committee require any further information in this regard.
19. In conclusion, in relation to the Local Government Ombudsman's Annual Letter, there have been continuous improvements in the areas where issues and concerns were raised in either previous year's Annual Letters or during the course of the year. The number of complaints continues to remain low and that is pleasing. Southampton performs well in comparison to its Audit Commission comparator group in the south and has the joint lowest number of complaints and the fastest response time in relation to those authorities. Excluding the single large payment made this year for a social care complaint, the sums paid by the Council in resolving complaints is broadly comparable with last years, but clearly improvements can still be made in resolving complaints earlier before reference to the LGO to reduce this further. Most settlements entered into by the Council this year related to minor procedural faults or time and trouble in pursuing a complaint that could have been more proactively considered / offered at stage 2 or 3 of the complaints procedure. The concerns relating to delay identified as a recurrent theme in previous years reports (usually in relation to delay in offering the service requested or in dealing with the complaint at stages 2 or 3 of the complaints process) have been significantly improved upon. Changes to the recording and monitoring of complaints within the Council has helped to address some of these issues, however, this is an area where the Council's historic performance has been below standard and progress to improvement will continue to be monitored accordingly.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

20. N/A

Revenue

21. There are no additional revenue implications arising from this report. The small level of compensation paid was met from within existing budgets.

Property

22. N/A

Other

23. N/A

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

24. The Ombudsman's jurisdiction is laid out in the Local Government Act 1974 as amended. Local authority complaints mechanisms are operated under Section 11 Local Government Act 1972 and complaints in relation to Children's and Adult Services in accordance with corresponding primary legislation, regulations and evidence.

Other Legal Implications:

25. N/A

POLICY FRAMEWORK IMPLICATIONS

26. The matters set out in this report are consistent with the Council's Constitution and Policy Framework.

SUPPORTING DOCUMENTATION

Appendices

1	LGO Annual Letter 2009-10
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Documents In Members' Rooms

1.	None
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Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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Background documents available for inspection at:

E-mail:

FORWARD PLAN No N/A

KEY DECISION No

WARDS/COMMUNITIES AFFECTED

N/A