

Changes Regarding the Local
Government Ombudsman

Report of Colette Longbottom, Head of Legal and Democratic
Services

Purpose of the Report

- 1 To advise the Standards Committee on new arrangements to be implemented by the Local Government Ombudsman (LGO).

Background

- 2 The LGO has introduced a new business model in response to the 37% cut in funding it will suffer for 2014/15, despite a predicted increase in complaints of 10-12%. The increase in complaints is predicted due to changes in the provision of Welfare, and also changes in Housing. In relation to Welfare, such complaints were previously dealt with by the Social Fund Commissioner (last year 38k), these now fall under the jurisdiction of the LGO.
- 3 The new business model takes the form of a new 3 stage approach to complaints handling. The 3 stages will be Intake; Assessment; Investigation. From the point of Intake to the conclusion of the Assessment stage, should take no more than 20 days.
- 4 **INTAKE** – A complaint will only be with the INTAKE TEAM for 1 day, during which time it will go through a quick assessment to determine whether the complaint is premature, whether it is a matter for the LGO and whether there is sufficient evidence to warrant it being referred to the ASSESSMENT TEAM. There will be no corresponding with the Authority at the INTAKE stage, nor will the team be making decisions such as whether the complaint is potentially outside of LGO jurisdiction.
- 5 **ASSESSMENT** – Key to assessment stage is that rapid decisions will be made on complaints, as to whether they should be rejected or progressed for investigation. Rather than formal emails between LGO and the Authority, it is envisaged that at this stage there will be a greater emphasis on more immediate conversations with the Authority Liaison Officer to obtain provisional information and to provide clarification.
- 6 **PREMATURE COMPLAINTS** – Up until now, when the LGO establishes that a complaint to them is premature (that the Council has not had a reasonable opportunity to deal with the matter internally), the Authority Liaison Officer is sent a copy of the complaint and is instructed to process it accordingly to ensure that it will be considered under the Councils Complaints Procedure. This will no longer be the case. The LGO are placing the onus on the

complainant, and should a complaint be classified as premature, then it will be the responsibility of the complainant to bring the matter to the attention of the Council. The LGO will not “hold the hand” of complainants any longer at this stage, the complainant will be forced to take responsibility for their own complaint.

- 7 Could we/should we approach will be taken as to whether a complaint is progressed for investigation, with factors such as whether an investigation would be an appropriate use of public funds, or whether there is public interest in a matter, being taken into consideration.
- 8 **INVESTIGATION** – Once a complaint has been passed to an Investigator, regular contact with the Authority Liaison Officer will be encouraged, so that complaints aren’t “left hanging” for months on end as has been the case in the past. Furthermore, rather than just being provided with excerpts from a complaint, the Authority Liaison Officer should, in most cases, receive a full copy of the complaint to work with. The law stipulates that once an investigation is underway, the Authority must be permitted to comment on the complaint, so that opportunity will always be provided.
- 9 **PUBLISHING STATEMENTS OF REASON** – Perhaps the most drastic change to the way the LGO now proposes to operate. From 1 April 2013, all decisions made by the Ombudsman subsequent to that date, will be published. This is not done by any other Ombudsman at this time. The LGO believes that the current publication scheme is imbalanced and gives an unfair view of local authorities, as only cases which are taken to report stage get published, which inevitably find in favour of the complainant and identify serious maladministration or injustice on the part of the Council. The new approach of publishing ALL decisions will be fairer and more realistic.
- 10 1 April 2013 will be the lead in date for this new approach, however we will not start to see decisions published until the summer, as three months will be allowed to pass from when a decision is made to it being published.
- 11 The publication scheme will apply to all decisions, even those made at assessment stage, when the Authority may not have been called upon to provide information/comment on the complaint. This will be common at Assessment Stage, and the first we may hear about most complaints dealt with at Assessment, will be when the decision notice is issued. However these decisions will not have found any issue with the Council, they will be non-contentious cases and the decisions made will be non negotiable for the complainant. In any case where there may be implications/negative comment about the Authority, a provisional view will always be issued first.
- 12 As such, whether at Assessment or Investigation stage, there should from this point on, be greater importance placed on all Provisional Views released by the Ombudsman. This is the Council’s opportunity to refute or challenge any comments made by the LGO which may appear in the final published decision notice. Even in cases where the Ombudsman is not suggesting any maladministration etc on behalf of the Council, with no further action to be taken, it may still be that the Provisional View could contain negative critique about the Authority, for example, drawing attention to how a matter could have been handled better, even though there is no ultimate finding of

injustice. As such, any officers who receive a copy of a Provisional View from the Authority Liaison Officer, should be urged to take the time to assess the content closely, and take advantage of the opportunity to pass comment, before the Investigator arrives at a Final Decision which will ultimately be published.

- 13 There are unlikely to be any exceptions to the rule that all final decisions will be published, it will be a universal approach. It should also be noted that anonymity will not be afforded to any senior officers who may be mentioned in a final decision notice, although junior officers will remain anonymous.
- 14 There is attached, at Appendix 2, a schedule showing the number of complaints currently being overseen by Democratic Services.
- 15 **IN SUMMARY** - Key points to note are as follows:
 - Changes in the relationship between the LGO and Authority Liaison Officers – while there will be less work to do in terms of premature complaints and less complaints being progressed to Investigation, this will be balanced out by the approach that there will be more conversations at Assessment Stage and a predicted increase in the number of complaints to deal with.
 - The publication of decisions – Need to establish a regular dialogue between the Authority Liaison Officer and External Communications, possibly on a monthly basis, to provide advance notice of decisions which will be due to be published.

Recommendation

- 16 To note the new arrangements to be implemented by the Local Government Ombudsman.

Appendix 1: Implications

Finance – none specific in this report.

Staffing - none specific in this report.

Risk - none specific in this report.

Equality and Diversity / Public Sector Equality Duty - none specific in this report.

Accommodation - none specific in this report.

Crime and Disorder - none specific in this report.

Human Rights - none specific in this report.

Consultation - none specific in this report.

Procurement - none specific in this report.

Disability Issues - none specific in this report.

Legal Implications - none specific in this report.

Appendix 2: 2013 Ombudsman Cases Overview

New Complaints

From 1 January 2013 to date, there have been 39 new enquiries from the Local Government Ombudsman further to complaints made against the Council. These relate to the following:

- 9 x Planning related complaints
- 6 x Adult Social Care complaints
- 8 x Children's Services complaints
- 3 x Highways related complaint
- 1 x Anti Social Behaviour related complaint
- 2 x School Admission Appeals complaints
- 1 x Rights of Way complaint
- 1 Housing complaint
- 5 x Benefits & Tax complaints
- 2 x Corporate Services complaints
- 1 x Benefits/Homelessness/Housing Solutions related complaint.

Of those 39 complaints, 20 have already been closed by the Ombudsman as follows:

- 1 x Planning complaint – closed as not in the LGO jurisdiction
- 3 x Planning complaints – Ombudsman decided not to initiate full investigations
- 2 x Adult Social Care complaints– Ombudsman decided not to initiate full investigations.
- 2 Children's Services complaints– closed as not in the LGO jurisdiction
- 1 x Children's Services complaint – Ombudsman decided not to initiate a full investigation.
- 1 x Children's Services complaint – closed following a local settlement.
- 1 x Children's Services complaint – the Ombudsman discontinued their involvement to allow the Council to fully investigate the complaint internally.
- 1 x Highways complaint – closed as not in the LGO jurisdiction.
- 2 x Benefits & Tax complaints – Ombudsman decided not to initiate full investigations.
- 2 x Benefits & Tax complaints – closed as not in the LGO jurisdiction.
- 2 x Corporate Services complaints- closed as not in the LGO jurisdiction.
- 1 x Anti Social Behaviour complaint – closed as not in the LGO jurisdiction.
- 1 x Housing complaint – Ombudsman decided not to initiate full investigation.

Ongoing Complaints

There is currently 1 case ongoing which was opened prior to the beginning of the year, as follows:

- 1 x Benefits/Homelessness complaint (open since 23/11/12)

Premature Complaints

Since the beginning of the year the Ombudsman has referred 6 complaints back to the Council to deal with, as it was apparent that the Council had not had fair opportunity to consider the matters through the internal complaints procedure. These relate to the following:

- 2 x Adult Social Care complaints
- 1 x Planning related complaint
- 1 x complaint relating to Housing Repairs
- 1 x School Admission Appeals complaint
- 1 x complaint relating to the actions of the Councils bailiffs

It has been procedure up to now for the Ombudsman to send the Authority Liaison Officer all the details of the premature complaint, which then needs to be logged and submitted to the Corporate Complaints Unit. This is no longer the case, the Ombudsman will no longer refer matters to the Council on the complainants behalf, that will be up to the complainant to do.