

**BUSINESS SUPPORT
OVERVIEW AND SCRUTINY COMMITTEE**

4 SEPTEMBER 2008

LOCAL GOVERNMENT OMBUDSMAN'S ANNUAL LETTER 2008

Report from: Neil Davies - Chief Executive
Author: Richard Hicks – AD Customer First,
Democracy and Governance

Summary

To assist service improvement the Local Government Ombudsman issues an annual public letter to local authorities providing a summary of the complaints received by the Ombudsman for that authority. This report presents for consideration the Ombudsman's 2007/08 annual letter to Medway.

1. Budget and Policy Framework

- 1.1 Putting the customer at the centre of everything it does is one of the council's two core values. Effective complaints management and learning from complaints is a key component of this approach.
- 1.2 The council has an agreed two-stage complaints procedure for complaints outside the statutory Adult and Children's Social Care complaint schemes.
- 1.3 Stage 1 of the corporate procedure provides the service where the complaint has arisen with the opportunity to look into the matter and put things right. If the complainant is unhappy with the outcome at the end of Stage 1 they can take their complaint to Stage 2.

- 1.4 At Stage 2 the complaint is reconsidered, under the lead of the Chief Executive's Complaints Officer, to ensure there has been no administrative fault on the part of the council, for example, a failure to follow procedure, to comply with policy or meet service standards.
- 1.5 If the complainant remains dissatisfied with the outcome at the end of Stage 2 they may take their complaint to the Local Government Ombudsman, who will investigate on the complainant's behalf.

2. Background

- 2.1 The Local Government Ombudsman's 2007/08 Annual Letter provides a summary of the complaints the Ombudsman has received about Medway Council with comment on the authority's performance and complaint handling arrangements. The purpose of the letter is to assist service improvement.

2.2 Complaints Received

- 2.2.1 The LGO received 79 complaints against the council during 2007/08, two more than in the previous year. Seventeen of these were referred back to the council as premature, with the Ombudsman considering the council had not been given reasonable opportunity to deal with them. A further ten were considered by the Ombudsman to be outside his jurisdiction.
- 2.2.2 Of the 52 complaints accepted by the Ombudsman for investigation he found no maladministration in 10 of these and he exercised his discretion to close a further 21 without requiring any action by the council. This can be for a variety of reasons, but the most common is that the Ombudsman finds no or insufficient injustice to warrant pursuing the matter further.
- 2.2.3 The remaining 21 cases were concluded by local settlement with compensation totalling £7,700 being paid. This compares against £6,549 paid over 2006/2007. Local settlement is where, during the course of the investigation, the council agrees to take some action, which the Ombudsman considers to be a satisfactory response to the complaint.
- 2.2.4 The table below profiles the complaints received by the Ombudsman by service area with the number concluded by local settlement and the total compensation paid.

Service Area	Received	Local Settlement	Compensation
Adult Care Services	07	04	£1,243
Benefits	02	00	00
Children & Family Services	07	03	£3,766
Education	11	01	£0
Housing	13	03	£300
Planning and Building Control	20	04	£2,033
Public Finance	05	01	£55
Transport and Highways	06	02	£200
Other	08	03	£103

2.3 Turnaround Performance

- 2.3.1 The average response time to complaints from the Ombudsman was 38.7 days, one day longer than over 2006/07. This compares against an Ombudsman expectation of 28 days. However, performance against this measure was distorted by significant delay on four particular cases. If these are discounted the average response time was 27.1 days.
- 2.3.2 The handling of an anti social behaviour complaint took 190 days to resolve. While finding the council's response to the complaint had been proportionate the Ombudsman proposed a time and trouble award of £50 to the complainant for the delay in answering the complaint. Another complaint about noise nuisance took 76 days to respond to. In this case the Ombudsman found no administrative fault on the part of the Council, nor was a time and trouble award proposed.
- 2.3.3 The complexity of each of these cases played some part in the delay in replying to the Ombudsman but each of these cases could have been progressed in a more timely fashion, with administrative delay contributing to the delay in getting back to the Ombudsman.
- 2.3.4 Further significant delay was experienced on two housing complaints referred by the Ombudsman, which respectively took 71 and 61 days to answer. Again, complexity and administrative delay were factors in the time taken to get back to the Ombudsman.

2.3.5 To minimise processing delays in the future, Ombudsman complaints are now recorded and monitored on-line, providing an up to date picture on the position of each case and assisting progress monitoring. This system will trigger alerts at key stages to ensure timely responses in future.

2.3.6 Complaints handling performance and the reasons why people have complained are also now routinely the subject of management review across the organisation and to reinforce this process, ensuring its completeness and effectiveness, a recommendation of this report is that this committee receives a six monthly complaints review report.

2.4 **Handling Procedures**

2.4.1 The Ombudsman commented favourably on the helpfulness of the Chief Executive's Complaints Officer and the council's overall willingness to settle complaints. The Ombudsman's Investigator has met with complaints staff locally and a training session on complaints management has been delivered in conjunction with the Ombudsman.

2.4.2 The Ombudsman observed in his letter that while the council is willing to accept fault and offer an apology it is less inclined to consider the appropriateness of financial remedy. As a result of this observation a remedy and redress statement is to be developed, taking as its starting point guidance published by the Ombudsman, to sit alongside the complaints procedure.

2.5 **Other Matters**

2.5.1 In his letter the Ombudsman further sought clarification on the position on a number of matters arising from complaints received and these are outlined below:

2.5.2 As a result of an adult care complaint, procedures are now in place to ensure communication with next of kin.

2.5.3 In a housing complaint the need arose to undertake a survey to identify the availability of one-bedroom properties with a bedroom large enough to accommodate a double and single bed. The survey unfortunately took longer to complete than expected but the results have now been made known to the complainant and to the Ombudsman.

2.5.4 The Ombudsman sought confirmation on the progress of an agreed review to more clearly define the relationship between the council's complaints procedure and disciplinary procedures. This was after the Ombudsman had formed the view, based on some complaints received, that concerns about staff behaviour could not be raised through the council's complaints procedure. The new on-line managers' toolkit now includes procedures for handling complaints about staff conduct. Whilst any disciplinary action resulting from such

an investigation would remain confidential, such complainants should be handled in accordance with corporate complaints procedures.

- 2.5.5 Finally, the Ombudsman asked for a copy of the Council's housing allocations policy and confirmation that it had been implemented. A copy of the policy has been sent with confirmation of imminent implementation.

3. Advice and Analysis

- 3.1 Complaints offer a chance for the Council to gain an accurate picture of the level and quality of service offered from the perspective of the customer. They provide feedback on service delivery and a means for the customer to have an input into the continuous improvement of the organisation.
- 3.2 The Ombudsman's annual letter therefore provides a helpful analysis to assist service improvement and this committee is asked to consider his report in this context.

4. Financial and Legal Implications

- 4.1 As a result of recommendations by the Ombudsman the council paid a total of £7,700 in compensation over 2007/08, which was met from service budgets.
- 4.2 The jurisdiction of the Local Government Ombudsman in England is defined by the Local Government Act 1974 covering all local authorities (excluding town and parish councils); police authorities; education appeal panels; and a range of other bodies providing local services. Under the Act the Ombudsmen may investigate complaints by members of the public who consider that they have been caused injustice by maladministration in connection with action taken by, or on behalf of, authorities within the Ombudsman's jurisdiction in the exercise of their administrative functions. For the purposes of an investigation, an Ombudsman has the same powers as the High Court concerning the attendance and examination of witnesses and the production of documents.

5. Recommendations

- 5.1 That the Business Support Overview and Scrutiny Committee note the content of this report and agree:
- I. The need for a remedy and redress guide in the light of the Ombudsman's comments.
 - II. That it receives a six monthly complaints review report.

6. Lead Officer Contact

Richard Hicks,
AD Customer First, Democracy and Governance
Location Gun Wharf
Telephone Medway 33 2764
Email richard.hicks@medway.gov.uk.

7. Background Papers

Local Government Ombudsman's Annual Letter to Medway Council
for the year ended 31 March 2008.