

ADJUDICATION & REVIEW COMMITTEE

30 January 2014

Subject Heading:

**CHANGES TO THE DECISION
REASONS USED BY THE LOCAL
GOVERNMENT OMBUDSMAN**

CMT Lead:

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Policy context:

The effective and efficient provision of public services

Financial summary:

None associated with this report

**Has an Equality Impact Assessment
(EIA) been carried out?**

Not required.

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

The Local Government Ombudsman from time to time revises the terminology used to describe decisions given. These reasons are used to form the basis of her Annual Report to councils as well as sign-posting decisions on the LGO web-site. There was a change in 2012/13, but there has been a much more comprehensive change which could have a significant impact on the public's perception of how the Council is managing its provision of services.

RECOMMENDATIONS

That the Committee

1. Note the changes made by the LGO to the decision reasons.
2. Decide whether this information should be passed to the Chairs of the Overview and Scrutiny committees when they have been appointed after the Local Government elections.

REPORT DETAIL

1. Over the past few years, the Local Government Ombudsman (LGO/Ombudsman) has made changes to the terms she uses to summarise her findings. These have included: Ombudsman's discretion, outside jurisdiction (OJ), local settlement (LS) as well as maladministration (with or without injury)
2. The last changes – which were notified to councils ahead of their introduction and commenced with the beginning of the municipal year – changed the focus of how the findings were worded. Out of jurisdiction was split and the discontinued investigation was condensed whilst the completed investigations were simply re-worded to more closely resemble the split between issuing a report (the most serious finding) or not issuing a report. The overall number of categories remained the same: 6.
3. During the recent months, the LGO has reconsidered how she should record her decisions and – without any prior notification – commenced the implementation of a partial change in February 2014.
4. Whilst not changing the lower scale of decisions (the two OJ categories and the “not to investigate” and “discontinued investigation”) the remaining two categories were each split into three. (see the appended e-mail for details).
5. On April 1 the LGO implemented the second part of her rationalisation of decisions removing the bottom tier of four and replacing them with three categories which, more or less covered the scope of the previous decisions.
6. The rationale given in the e-mail dated 3 April (attached) is that the Ombudsman will now give her decisions “in terms of upholding and not upholding” It also purports to make the decision reasons “more transparent and easier ... to understand”.
7. The biggest single factor in the new terminology is the prevalence of the word “maladministration” – six of the (now) nine categories contain the term. The justification given about using it is that: “... it is not how significant the

fault is that decides whether there is maladministration. If there has been administrative fault, *then it is maladministration*". (italics, mine).

8. In the past, it has been usual for the Ombudsman to reserve the term "maladministration" for when a Report was issued. In future, this will appear whether a Report is to be issued or not.
9. In the new categories, there are four elements where maladministration is upheld and two where the case for maladministration has not been upheld. Three categories cover the issue of a Report (even where maladministration has not been found) and three where no Report is to be issued (and that includes a category where maladministration and injury has been found).
10. The biggest impact will undoubtedly be the use of the term "maladministration" after such a long time of its being reserved for the most serious (and reported) failures of local administration. In the public perception the increased use of this term might suggest that councils are beginning to fail. It is an emotive term and because it has in the past been used sparingly, its sudden prevalence is likely to provoke interest at the very least.
11. The notification e-mail has been passed to all senior officers (and the changes notified through the Calendar Brief Ombudsman update), but the Committee might consider that this has been such a significant change that it ought to be brought to the attention of the new Chairs of the Overview and Scrutiny committees (OSCs) when they are appointed at Annual Council so that the OSCs are aware of how the LGO is now recording her decisions, whether formal Reports are issued or not.

IMPLICATIONS AND RISKS

Financial implications and risks:

None associated with this report.

Legal implications and risks:

There are no direct legal implications arising from this report.

Human Resources implications and risks:

There are none associated with this report.

Equalities implications and risks:

There are none associated with this report

BACKGROUND PAPERS

None