

## Grant Soderberg

**From:** Nicky Watson <N.Watson@lgo.org.uk> on behalf of policyandcomms <policyandcomms@lgo.org.uk>  
**Sent:** 03 April 2014 15:07  
**To:** Nicky Watson  
**Subject:** LGO - new decision reasons

**\*\*Apologies if you have received this email already. We've had a number returned by the mail server so it's been sent again to make sure everyone receives it.\*\***

Dear Link Officers

We have been considering how we describe our decisions to our complainants, our bodies in jurisdiction, to the public at large and to Parliament.

We will now describe our decisions in terms of upholding or not upholding, which brings us closer in practice to how other Ombudsman schemes and many local authorities describe their decisions. The new decision reasons are more transparent and easier for people to understand.

Some of you may have already noticed that we made a minor change in how we describe our decisions in February 2014. The table below describes the decision reasons we have used on the bottom of our letters for 2013/14 (including the February changes) and the decision reasons we will use from 1 April 2014. In terms of the annual letters we will be sending shortly, we will use the decision reason descriptions from 1 April 2013.

<b>Decision Reasons from 1 April 2013</b>	<b>What changed in February 2014</b>	<b>Decision Reasons from 1 April 2014</b>
<i>Not in jurisdiction (OJ) and no discretion</i>	<i>No Change</i>	<i>Closed after initial enquiries – out of jurisdiction</i>
<i>Not in jurisdiction (OJ) and discretion not exercised</i>		<i>Closed after initial enquiries – no further action</i>
<i>Not investigated</i>		
<i>To discontinue investigation</i>		<i>Not upheld: No further action</i>
<i>Investigation complete and satisfied with authority actions or proposed actions and not appropriate to issue report S30(1B)</i>	<i>Investigation complete: Maladministration and Injustice</i>	<i>Upheld: Maladministration and Injustice</i>
	<i>Investigation complete: Maladministration, No Injustice</i>	<i>Upheld: Maladministration, No Injustice</i>
	<i>Investigation complete: No Maladministration</i>	<i>Not upheld: No Maladministration</i>
<i>Investigation complete and appropriate to issue a report S30(1)</i>	<i>Investigation complete and report issued: Maladministration and Injustice</i>	<i>Report issued: Upheld; maladministration and injustice</i>
	<i>Investigation complete and report issued: Maladministration, No Injustice</i>	<i>Report issued: Upheld; maladministration, no injustice</i>
	<i>Investigation complete and report issued: No Maladministration</i>	<i>Report issued: Not upheld; no maladministration</i>

It is important to be clear about what the Local Government Act 1974 says about how the Ombudsman may decide a complaint. The law does not require LGO to issue a public report for us to make a finding of maladministration. Section 30(1B) specifically allows LGO to complete an investigation without issuing a public report. The act of completing an investigation requires a decision to be made about whether there

has been maladministration and injustice. The Ombudsman has delegated the authority to make decisions under section 30(1B) to investigators.

LGO has been completing cases in this way for the last year – it is only our descriptions of the decision at the bottom of our letters that has changed. Our decision statements include our conclusions about whether there has been maladministration, though we often refer to it as fault as a more plain English term. Maladministration is deliberately not defined in law; it is for LGO to decide whether a particular set of circumstances amount to maladministration. In general terms, it is “administrative fault by the body in jurisdiction”. In the past, the term maladministration was often reserved for reports, where the fault is likely to have been significant. However, it is not how significant the fault is that decides whether there is maladministration. If there has been administrative fault, then it is maladministration.

Legal judgements have described maladministration as: bias, neglect, inattention, delay, incompetence, ineptitude, perversity and arbitrariness.

Previous Ombudsmen have given examples which include: rudeness; partiality; refusal to answer reasonable questions; neglecting to inform a complainant of his or her rights or entitlement; knowingly giving advice which is misleading or inadequate; ignoring valid advice or overruling considerations which would produce an uncomfortable result for the overruler; offering no redress or manifestly disproportionate redress; showing bias; faulty procedures; failure by management to monitor compliance with adequate procedures; and cavalier disregard of guidance which is intended to give equitable treatment of those who use a service

We are also aware that, while the Ombudsman does not require an authority to report findings of maladministration issued under section 30(1B) to its members, there is other legislation placing requirements on a council’s Monitoring Officer with regard to reporting a finding of maladministration. While we recognise this may mean a change in your own practices and reporting arrangements, we consider this is an important step to increase the transparency and accountability of LGO.

We will cover other developments and information from the Ombudsman in the next LGO Link newsletter - due out later this month.

Local Government  
**OMBUDSMAN**



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