



ADJUDICATION & REVIEW COMMITTEE

6 August 2014

Subject Heading:

**LOCAL GOVERNMENT OMBUDSMAN –
Annual Letter, for 2013-14**

CMT Lead:

Helen Edwards, Director Legal &
Governance

Report Author and contact details:

Grant Soderberg, Committee Officer
01708 433091
grant.soderberg@onesource

Policy context:

Ombudsman commentary on complaints
presented to her over the previous year to
assist the Council to ensure good practice
is maintained

Financial summary:

None directly 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 checked="" type="checkbox"/>

SUMMARY

The Annual Letter from the Local Government Ombudsman (LGO) was received in July. The Annual Letter is the LGO's principle means of communicating a summary of its activity with every authority (361- not just local councils these days) across England and provides a break-down of complaints referred to her throughout the year.

RECOMMENDATIONS

1. That the Committee note the contents of the Ombudsman's Annual Letter.
2. That the Committee decide whether the Letter should be sent to the Chairmen of the Overview and Scrutiny Committees and their comments sought.
3. The Committee decide whether a letter of response should be sent to the Local Government Ombudsman about this year's letter.
4. The Committee decide whether the statistics provided by the LGO should be published on Calendar Brief along with the in-house commentary.

REPORT DETAIL

Background:

1. The Annual Letter has become the usual method of formally communicating with councils over the past few years. In previous years the Letter contained information to the Chief Executive and Council which was pertinent to Havering – including comments on some “significant” cases as well as an evaluation of trends, both in the borough and across the country.
2. Last year's Letter was bereft of detail because the LGO had changed its software and as this was implemented part-way through the year, the Ombudsman had two sets of data and argued that she was unable to amalgamate them into a coherent entity.
3. As this year's letter states, *“This is the first full year of recording complaints under our new business model so the figures will not be directly comparable to previous years”*.
4. The figure for complaints received provided within this is: **119** and the number of decisions is **121**. In previous years the LGO had provided a detailed summary of cases she considered had been dealt with and it had been possible to analyse them and reconcile the LGO's figures with the Council's. Clearly that was not possible for 2012-13, but, having contacted the LGO's office when this year's figures were made available, the Council has been provided with a set answer that “it is unable to provide more detailed analysis as this would detract from the Ombudsman's core objectives” and so it has not been possible to agree the Ombudsman's figures.
5. A detailed review of the statistics collected through the year show that there were only **72** complaints (the number of unique Ombudsman references used) which resulted in a total of 102 distinct contacts from the LGO in the form of enquiries (33), premature complaints referred to the Council for resolution

through its complaints procedure (11) and “investigations”. These were either an investigation – where the Council was asked to provide answers to questions (21) or Ombudsman decisions – where the Council was informed that the Ombudsman was not going to undertake an investigation, usually because the matter was outside her jurisdiction (37).

6. To illustrate the difference in perception which this year’s figures have produced, attention is drawn to the penultimate column in the “Decisions made” summary: “Referred back for local resolution” which is shown as being 60. The actual recorded figure for “referrals” (using the Ombudsman’s own terminology) is 11.
7. As reported to the Committee on previous occasions, some of these cases appeared in more than one form; indeed during 2013/14, there was one instance of a complaint starting as an enquiry, being referred back to the Council as “premature” and then appearing again as a further enquiry and ending as a decision. The majority of cases recorded during the year were single contacts (51 in total – though three individual complainants were involved in one complaint). The remainder (23 cases) involved two points of contact; mostly in the form of an enquiry followed by either a referral (premature) or a decision not to investigate or an investigation.
8. Last year, the Council had been informed that no statistics would be provided because the LGO had changed their business management software part-way through the period and meaningful data would not be possible. This year, the expectation was high that the information provided would be of a high quality and that the new software would make reconciliation easier than previously was the case.
9. Unfortunately, this has not been the case. The Council has been in contact with the Ombudsman and has been provided with a copy of her base statistics. These have been scrutinised and have confirmed that there are indeed issues which need to be addressed. For example: The LGO total of 119 contacts appears to have been understated by ten cases (in our records but not on the Ombudsman’s database).
10. In another example, two of the contacts recorded during 2013/14 by the Ombudsman do not appear in the Council’s figures as they were not notified of them until May/June 2014, well into the year after the Ombudsman’s stats. This sort of statistical recording – especially when the results are published without the Council having had an opportunity to question, challenge or correct, the data, is worrying and could have negative public relations impact.
11. Appended to this report is a copy of the LGO’s Annual Letter and a copy of the end summary provided to Members and Senior Management once final figures had been checked for the year 1 April 2013 to 31 March 2014.
12. Please note: the figures for each of the categories in “complaints and enquiries received” are not accurate. On their own they appear to be correct, but when compared to the base data, the following totals are found:

• Adult Care Services:	should be	10
• Benefits & Tax	should be	23
• Corporate & Others	should be	5
	but there are	4 “null” entries as well
not accounted for		
• Education & Children	OK at	5
• Environment & Public Protection:	should be	6
• Highways & Transport:	should be	18
• Housing	should be	31 and
• Planning	should be	17
	Total:	119

13. The net effect of these discrepancies weakens the value of the provision of these figures as they not only show authorities that they are only being provided with a proportion of the number of approaches made to the Ombudsman, but even the classification of those complaints are not accurate.
14. The Ombudsman accepts that this year there may have been unexpected issues and has invited comment and suggestions to improve the Annual Letter for future years. The Council will be accepting this invitation to do so.

The Future:

15. The difficulty faced by the Local Government Ombudsman this year continues to be in part caused by heavy cuts to her funding which have resulted in the number of Ombudsmen dealing with local government across England being reduced from three to one (currently Dr Jane Martin – reiterated in her letter this year), the reduction to its staffing levels, the departure from its headquarters at Millbank Tower to more modest accommodation in London – and with most of its activity now being concentrated in Coventry – and changes to its technology which appears to have led to the lack of supporting analysis continuing to be provided to councils.
16. As stated above, it was hoped (in last year’s report) that by the close of 2013/14 the reorganisation among the Ombudsman’s personnel and to its technological infrastructure would have led to more detailed data being once more becoming available to councils in order that proper comparisons can be made. This has clearly not been the case this year.
17. At the time this report was being written, the LGO contacted the Council and the Deputy Ombudsman’s office spent time in discussing some of the various issues this year’s Annual Letter had thrown-up. In particular the LGO will take Havering’s statistics and use them to conduct an audit of its own system. It will also consider how best it could – in future – express its findings in a way which is more “user-friendly”. It will see whether it is going to be possible to return to consulting with individual authorities ahead of making the figures public and it will also consider whether the Annual Letters can once again be more specific to individual authorities. It would seem that some good may yet emerge from this year’s problems.

Ombudsman Decision Categories

18. The current year has seen a major change in the way the Ombudsman records her decisions. This has caused something of a reaction among councils across the country because of the wider application of the term “maladministration” a term which (though undefined in law, has a specific set of prescribed actions which councils are obliged to take) was hitherto used sparingly and usually in conjunction with a formal Report. In the new terminology that remains reserved for the “maladministration with injury” for which a report has been issued, but the term “maladministration” now appears in six of the nine categories and it will be interesting to see how this increased use will be perceived by the public especially during a period – unprecedented in the past – where authorities everywhere are having to reduce, cut or put out to sub-contractor, the services it has come to identify with “normal” provision.
19. Because the Ombudsman has changed her terminology, it is inevitable that there will be some change in the terminology used in the reports produced in house and provided to staff and Members. It is hoped that – as far as possible – those changes will ensure that they remain easy to understand whilst reflecting a congruency with the Ombudsman’s language.
20. Whilst this restrained climate continues and if funding levels remain depressed, it is probable that councils – including Havering – will continue to receive a steady stream of enquiries followed either by referrals or Ombudsman decisions not to investigate.

IMPLICATIONS AND RISKS

Financial implications and risks:

There have been financial implications during the year 2012-13 because of Ombudsman activity. Any penalties and compensation is met from within existing budgets of the services affected.

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

Electronic records of the complaints
LGO Annual Letter & Local Authority Report (attached)