

ADJUDICATION & REPORT REVIEW COMMITTEE

6 November 2012

Subject Heading:

UPDATE ON LOCAL GOVERNMENT
OMBUDSMAN ISSUES & LGO'S
ANNUAL LETTER

CMT Lead:

Ian Burns

Report Author and contact details:

Grant Söderberg,
Committee Officer, Committee
Administration, Town Hall
Romford RM1 3BD
Tel: 01708 432431
e-mail: grant.soderberg@havering.gov.uk

Policy context:

The Committee has responsibility for overseeing the activity of the Local Government Ombudsman as it affects Council complaints policies and needs to be aware of how changes to the LGO could impact on the Council
There are no specific financial implications

Financial summary:

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

| | |
|---|-------------------------------------|
| Ensuring a clean, safe and green borough | <input type="checkbox"/> |
| Championing education and learning for all | <input type="checkbox"/> |
| Providing economic, social and cultural activity in thriving towns and villages | <input type="checkbox"/> |
| Valuing and enhancing the lives of our residents | <input checked="" type="checkbox"/> |
| Delivering high customer satisfaction and a stable council tax | <input checked="" type="checkbox"/> |

SUMMARY

The Committee is responsible for overseeing the complaints process and part of that process involves interaction with the Local Government Ombudsman (LGO or "the Ombudsman").

Complainants unhappy with the manner in which their complaints against Council services have been dealt with have the right to approach the LGO to ask for an independent investigation into whether the council's procedures have been properly applied or whether they have been caused injustice.

In the recent past the Ombudsman's involvement with the Council has changed insofar as – under the recently retired Sir Tony Redmond – it had become more invasive, which placed greater burdens on the Council to provide responses. The recent cuts in public service funding has hit the LGO hard in that it has been obliged to radically re-think its operating procedures. These changes are yet to be fully introduced, but appended to this report is an extract from a communication from the LGO setting out its proposals and how it envisions these changes to impact on the way it interacts with councils.

A further change is the proposed involvement of the Housing Services Ombudsman which will come into effect from 1 April 2013. As yet there is no clear indication of how the two Ombudsmen will handle complaints which fall under the jurisdiction of both. All that can be said at this stage is that there will be a change in the way the Council has to respond to housing related complaints investigations and that a further, more detailed report will be submitted to the Committee once more information has been made available. Appendix 2 to this report provides further detail to this.

RECOMMENDATIONS

That the Committee note

1. The update concerning Ombudsman activity within this report
2. The changes to the Ombudsman arrangements outlined in appendix 1 to this report and
3. The Ombudsman's Annual Letter: appendix 3.

Consider whether the Ombudsman's Annual Report should be circulated to the Chairs of the Overview and Scrutiny committees (OSCs) and invite the OSCs to comment on it.

REPORT DETAIL

Background:

- 1 The last update on Ombudsman activity was presented to the Sub-Committee at its meeting on 22 May 2012.
- 2 Since that report there has been a change in the way in which the Ombudsman has dealt with the Council. The number of cases in May was

particularly high (14), but half of these were either informal enquiries or “premature” complaints being referred back to the Council for processing through its complaints procedure. Overall, the number of contacts from the LGO Investigators and the Advice Team is about the same as last year.

- 3 The statistics for the current year are distorted because a complex, multi-complainant set of linked investigations was carried over from the end of 2011. The matter involved Planning and Housing and there were 11 complainants. There was a single issue (that surrounding Yew Tree Lodge) and so the Council started the year with 22 issues outstanding. The final outcome was “Ombudsman’s Discretion” and the Sub-Committee was informed about this when it met in May.

Changes to the Local Government Ombudsman:

- 4 What has become apparent has been the steady reduction in contact from the Advice Team. The proposals contained in the appendix show that from next year the LGO intends to – more-or-less - discontinue formal referrals.
- 5 When complainants contact the LGO in future, they will be referred back to the council (if appropriate) and there will be no referencing of this, nor will there be any follow-up by the LGO as is currently the case.
- 6 This will most certainly have an impact on the way in which future complaints are handled. Currently a complaint referred by the LGO is escalated to Stage Two of the Council’s Corporate Complaints Procedure (unless it is a Social Care matter). In future, a complainant who has approached the Ombudsman and been told to take their complaint through the Council’s complaints process; if they have not already had their complaint considered at Stage One, it will be recorded as a new complaint and the Stage One procedure will apply. There will be no need to “fast-track” a complaint.
- 7 This could have an impact on the number of complainants approaching the Ombudsman. Under Sir Tony Redmond, the Ombudsman aggressively promoted itself as champion of the individual. It now no longer has the resources to sustain this approach and, as more complainants are turned away, it is not impossible that the numbers of complainants seeking the intervention of the Ombudsman will drop away.
- 8 It would appear that this is, in part, a conscious volte-face by the Ombudsman. With greatly reduced resources, the Ombudsman is having to choose her investigations more carefully. That said, it is very likely that the cases chosen to be investigated will be those where the Ombudsman considers that the outcome will be a finding against the Council and it is not inconceivable that there might be more findings of maladministration.
- 9 Two Local Government Ombudsmen remained after Sir Tony Redmond retired. The original decision to find a replacement was abandoned and so (for the foreseeable future) England will be covered by two Ombudsmen dealing with local administration issues (minus social housing issues). It is

also likely that as soon as financially possible, the LGO will leave London and relocate to the Midlands.

The Impact of the Housing Services Ombudsman:

- 10 After two years of prevarication, it seems that the Housing Services Ombudsman (HSO) is about to make his presence felt in respect of complaints tenants bring against the Council in respect of housing repairs. (Appendix 2)
- 11 The end of Homes in Havering (HiH) and the return of management of the Council's housing stock to Council management means that from 1 April 2013 the Council will be directly responsible for complaints referred to him.
- 12 Whilst simple complaints will be managed in a straight-forward manner, the problem will arise when a complaint crosses the jurisdiction of both the LGO and HSO. At this stage, it is not possible to provide any clear idea of how the process will be managed by the Ombudsmen as they have not indicated that they have worked that out themselves, so a new report will be produced when this becomes clearer, hopefully in the New Year.

The Local government Ombudsman's Annual Letter:

- 13 The Annual letter was received in July. It had been customary to hold a meeting of the Adjudication and Review Committee in either late August or early September in order for it to be considered by the Committee and the findings of the Ombudsman communicated to Overview and Scrutiny committees which had responsibility for oversight of the services commented on and also to provide comment to CMT if that was considered appropriate.
- 14 As Adjudication and Review did not regain its status as a Committee until 1 October 2012, it has not been possible to present the Annual Letter until now. It is proposed to ensure that the Committee has a meeting scheduled for late August or early September in the future.
- 15 Committee Administration has been approached by a Member who has asked whether it would be possible for Ombudsman Final Decisions to be added to Calendar Brief. Because they can sometimes be rather lengthy, it was considered not to be a practical solution; however it is suggested that notification of LGO decisions is included with the LGO update on Calendar Brief and the possibility of including a link to the web page – where the Ombudsman's decisions can be viewed - is being explored. If feasible, this facility could be available from December.

IMPLICATIONS AND RISKS

Financial implications and risks:

Changes to the way in which the Local Government Ombudsman is to work in the future and her interaction with the Housing Services Ombudsman in respect of joint housing repairs/housing needs investigations could have an impact on the present work-load of staff dealing with Ombudsman activities. This cannot be ascertained at present, but any costs will be met from existing budgets.

Legal implications and risks:

There are none directly associated with 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

Appendix 1

Re: Local Government Ombudsman – changes to organisation & practice

From: Rob Rundle [mailto:R.Rundle@lgo.org.uk]
Sent: 16 October 2012 14:47
Subject: Changes to LGO complaint process from 29 October 2012

For LGO link officers
cc Chief Executives

Dear Link Officer

The need to restructure

In the face of substantial budget cuts, the Commission has been working on a plan of action to restructure the Local Government Ombudsman service to achieve significant efficiency savings while maintaining a high quality service. The result is our Transformation Plan, which you can find on our website at <http://www.lgo.org.uk/about-us/governance/>.

We intend to deliver a service which deals with complaints swiftly and proportionately, with straightforward cases handled at the earliest possible stage. Only those cases which merit more detailed work will be passed through for investigation. More timely decisions at the early stages will be of benefit to complainants.

To this end, a core principle of our new approach will be to introduce a robust intake and assessment process.

Intake

The intake phase will be achieved by adapting our existing Advice Team which already receives all new complaints made.

At the intake phase we will no longer refer premature complaints to local authorities. We will only advise complainants that their complaints are premature and that they need to complain to the authority concerned themselves. The only exceptions will be in those cases where the complainant is vulnerable or otherwise cannot reasonably be expected to progress the matter on their own. And we will not carry out follow-up checks with the complainants or the council to see whether the matter has been satisfactorily resolved.

Assessment

The assessment phase will be a new stage in our business process. It is designed to enable sound and justified decision making at the earliest possible point in the complaints process, at the lowest possible cost, sifting out more serious cases and passing these rapidly on to the investigation teams. Our performance standard will be to make these decisions within 20 working days of receipt of the complaints. The assessment teams will:

- screen out all remaining premature complaints (that the intake phase has not been able to make an immediate decision on)
- make prompt decisions on all complaints that are:
 - > out of the Ombudsman's jurisdiction
 - > can be quickly resolved
 - > don't merit formal investigation, and

- pass on only those cases that merit formal investigation to the investigation teams with minimal pre-work or double handling.

Help from councils

In order for assessment to work, we need your help. We will be asking you to deal with our enquiries at the assessment phase more quickly than we currently do. But this will only be on potentially premature complaints and those where prompt decisions are possible. And most of these enquiries will be straightforward. We will only ask for confirmation that a person has already complained to the council or for documents that already exist. We will not ask you to generate new information – ie we will not ask for responses to a string of detailed questions. However, where we think that the complaint can be resolved quickly, we may ask you to consider taking some action which will avoid the need for an investigation by us.

But – we will want the answers quickly – possibly an immediate response to a phone call, or getting back to us by phone or email within a day or two. We envisage a good proportion of enquiries will be dealt with by telephone.

The benefits

There will be benefits for you:

- average response times will improve as more complaints are completed at the assessment stage with quick response times to our enquiries
- not every decision made at the assessment stage will involve a provisional view, and where a provisional view is needed, it will only be sent to the complainant as these will be decisions not to investigate, and
- the more complaints can be dealt with at the assessment stage, the fewer complaints will go through to investigation and require:
 - > more detailed enquiries
 - > more detailed provisional views to comment on, and
 - > potentially, more critical outcomes.

Clearly, as timescales are going to be tight, if we do not get responses to our enquiries from you quickly, we will have to make judgements based on information provided by the complainant – this may result in the complaint being passed on for investigation when it is not merited. We obviously need to avoid such situations arising.

Timing

As it is such a significant change, we want to introduce the new Assessment phase gradually. We are therefore going to test the new Assessment phase in our London office from 29 October this year. The new process will then be fully introduced across all our offices from 1 April 2013.

We hope we can count on your cooperation to make our new process a success – for the benefit of complainants and authorities we investigate.

We will reorganise our London staff with effect from 29 October. The initial assessment teams have been appointed, but in order to achieve flexibility we will be inviting other investigative staff to help out from time to time. The work of assessment teams will be managed and overseen by Paul Conroy, Head of Assessment. Please feel free to contact Paul with any queries you may have about the new Intake and Assessment phases.

p.conroy@lgo.org.uk – 020 7217 4656

Adjudication & Review Committee, 6 November 2012

The investigative staff in the assessment teams are set out below. Support staff have not yet been assigned. There will be no authority split between the two teams.

Assessment Team 1

Mel Abrams (Assessment Team Leader)
Chris Upjohn
Khadija Meer
John Baker

Assessment Team 2

Andrew Hobley (Assessment Team Leader)
Evan Lerwill
Emma Kennedy
Pat Moriarty

We have rearranged our remaining staff into three investigative teams, each responsible for a different group of authorities. The investigative staff in the investigative teams are set out below. Support staff have not yet been assigned.

Investigative Team 1 – led by: Richard Shaw (Assistant Director)

Responsible for the following authorities:

Babergh DC
Broxbourne BC
East Hertfordshire DC
Epsom & Ewell BC
Hackney LB
Hertfordshire Police Authority
Hounslow LB
Mole Valley DC
Reigate & Banstead BC
St Edmundsbury BC
Suffolk Coastal DC
Surrey CC
Tandridge DC
Waveney DC
Woking BC

Barking & Dagenham LB
Camden LB
Elmbridge BC
Forest Heath DC
Havering LB
Hertsmere BC
Ipswich BC
North Hertfordshire DC
Runnymede BC
Spelthorne BC
Suffolk CC
Surrey Heath BC
Three Rivers DC
Waverley BC

Barnet LB
Dacorum BC
Enfield LB
Guildford BC
Hertfordshire CC
Hillingdon LB
Mid Suffolk DC
North London Waste Authority
St Albans City & DC
Stevenage BC
Suffolk Police Authority
Surrey Police Authority
Watford BC
Welwyn Hatfield DC

Appendix 2

Re: Role of the Housing Ombudsman

From: Scheme [mailto:scheme@housing-ombudsman.org.uk]
Sent: 16 October 2012 13:25
To: Support
Subject: Housing Ombudsman - Consultation

Dear colleague

On 1 April 2013 the Housing Ombudsman's jurisdiction will extend to all social housing. We have undertaken a fundamental review of all aspects of the Service and are making significant changes to prepare for our new role.

Our new mission is impartial dispute resolution in rented housing and our vision is to work with others to increase trust in dispute resolution and to improve landlord and tenant relations. We are developing principles and learning media to help landlords, tenants, and designated persons resolve disputes locally.

A streamlined organisational structure, revised roles throughout the Service, a new website, further out-sourcing, and a re-engineered dispute resolution process will enable us to ensure optimum allocation of resources to service delivery so that we can add more value and make an impact that is relevant, proportionate and cost-effective.

A vital part of our transition is the approval by the Secretary of State of a new Scheme setting out the Ombudsman's jurisdiction, role, duties, powers, and discretion. We are seeking feedback by way of consultation on the terms of the new Scheme and would welcome your comments via the following link to our website:

www.housing-ombudsman.org.uk

If you wish to send us your views about any aspect of the Scheme please follow the instructions in the consultation document available under 'Relevant documents'. The deadline for your input is 15 December 2012.

I attach a press which includes the news that my Deputy, Rafael Runco, is leaving HOS.

Thank you for your help.

Dr Mike Biles
Ombudsman

Re: Ombudsman's Annual Letter 2011/2012:

22 June 2012

By email

Ms Cheryl Coppel
Chief Executive
London Borough of Havering
Town Hall
ROMFORD
Essex RM1 3BD

Dear Ms Coppel

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ended 31 March 2012. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number forwarded by the Advice Team to my office and decisions made on complaints about your authority. The decision descriptions have been changed to more closely follow the wording in our legislation and to give greater precision. Our guidance on statistics provides further explanation ([see our website](#)).

The statistics also show the time taken by your authority to respond to written enquiries. Your average response time to my enquiries was 23.6 days, so was within the 28 day target. But the average response time for housing complaints was 35 days.

Complaint Outcomes

We decided 56 complaints during the year. Ten were outside my jurisdiction to investigate, in 14 cases we found no evidence of maladministration, and in another 19 cases we decided to discontinue investigation for other reasons.

I issued a report this year on a housing allocations case concerning the rehousing of a family with a disabled daughter in a suitable property. The family had a three bedroom need, but the disabled daughter required a ground floor room. A three-bedroom property with two ground floor reception rooms became available, and the family made a bid for it, intending to use a reception room as a bedroom. They had the highest priority for the property, but the Council decided not to offer it to them. The Council said, if the family used a ground floor reception room as a bedroom, there would be four bedrooms and they were only assessed as needing three. The Council confirmed the bid would have been successful if the daughter had not needed to use a ground floor room as a bedroom.

I concluded that the family would have been rehoused had it not been for the daughter's disability. I considered the Council's decision was unfair and illogical. The Council did not give due consideration to the family's circumstances and its obligations under the Disability Discrimination Act 2005, and failed to follow its own Equalities and Diversity Policy. I also found that the Council's lettings policy was ambiguous and had not been applied fairly and

Adjudication & Review Committee, 6 November 2012

properly. To remedy the complaint I recommended the Council make the complainant a suitable offer of accommodation without delay, pay her family £4,000 compensation, arrange and fund a week of respite care for her daughter, and review the wording of its lettings policy.

The Council agreed to implement my remedy and I am aware it is reviewing its Housing Allocations Scheme and drafting a new Tenancy Strategy in the light of the Localism Act 2011. I am pleased to note that the Council has involved my staff in the consultation process regarding these matters.

In 12 other cases the Council agreed to settle the complaint, and I give details of two of these cases below.

I criticised the Council in another housing allocations case where the Council boarded up a property after the family concerned had to flee their home. It later left a Notice of Seeking Possession on the doorstep and sent another important letter there, despite knowing the family was living elsewhere. The Council also wrongly continued charging rent for the property, and took six months to correct this error. In addition, it incorrectly gave the complainant's transfer application band B instead of the higher band A priority and, as a result, she missed offers of at least two properties. The Council resolved matters by agreeing to pay £2,300 compensation for the distress and inconvenience the family suffered. It also made a procedural change to ensure that a senior officer now checks assessments of cases where a band A or B priority for rehousing is being awarded.

Another notable case involved a neighbour nuisance issue. The Council was at fault in failing to properly investigate and take effective action to address anti-social behaviour by the complainant's neighbour. As a result, she unnecessarily suffered noise nuisance and harassment over a number of years. I considered the Council's existing offer of £2,750 compensation was appropriate. Since the Council also agreed to take further action to address the nuisance issues, I considered the complaint had been suitably remedied.

Changes to our role

I am also pleased to have this opportunity to update you on changes to our role. Since April 2010 we have been exercising jurisdiction over the internal management of schools on a pilot basis in 14 local authority areas. This was repealed in the Education Act 2011 and the power restored to the Secretary of State for Education. During the short period of the pilot we believe we have had a positive impact on the way in which schools handle complaints. This was endorsed by independent research commissioned by the Department for Education which is available [on their website](#).

Our jurisdiction will end in July 2012 and all complaints about internal school matters will be completed by 31 January 2013.

From April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman (IHO). We are working with the IHO to ensure a smooth transition that will include information for local authority officers and members.

Supporting good local public administration

We launched a new series of Focus reports during 2011/12 to develop our role in supporting good local public administration and service improvement. They draw on the learning arising from our casework in specific service areas. Subjects have included school admissions, children out of school, homelessness and use of bankruptcy powers.

Adjudication & Review Committee, 6 November 2012

The reports describe good practice and highlight what can go wrong and the injustice caused. They also make recommendations on priority areas for improvement.

We were pleased that a survey of local government revenue officers provided positive feedback on the bankruptcy focus report. Some 85% said they found it useful.

In July 2011, we also published a report with the Centre for Public Scrutiny about how complaints can feed into local authority scrutiny and business planning arrangements.

We support local complaint resolution as the most speedy route to remedy. Our training programme on effective complaint handling is an important part of our work in this area. In 2011/12 we delivered 76 courses to councils, reaching 1,230 individual learners.

We have developed our course evaluation to measure the impact of our training more effectively. It has shown that 87% of learners gained new skills and knowledge to help them improve complaint-handling practice, 83% made changes to complaint-handling practice after training, and 73% said the improvements they made resulted in greater efficiency.

Further details of publications and training opportunities are on [our website](#).

Publishing decisions

Following consultation with councils, we are planning to launch an open publication scheme during the next year where we will be publishing on our website the final decision statements on all complaints. Making more information publicly available will increase our openness and transparency, and enhance our accountability.

Our aim is to provide a comprehensive picture of complaint decisions and reasons for councils and the public. This will help inform citizens about local services and create a new source of information on maladministration, service failure and injustice.

We will publish a copy of this annual review with those of all other English local authorities on our website on 12 July 2012. This will be the same day as publication of our Annual Report 2011/12 where you will find further information about our work.

We always welcome feedback from councils and would be pleased to receive your views. If it would be helpful, I should be pleased to arrange a meeting for myself or a senior manager to discuss our work in more detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Martin', with a horizontal line underneath.

Dr Jane Martin
Local Government Ombudsman