

ADJUDICATION & REVIEW COMMITTEE

17 OCTOBER 2013

Subject Heading:

**LOCAL GOVERNMENT OMBUDSMAN –
Evaluation of activity 1 April 2013 to
date**

CMT Lead:

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Policy context:

To review recent and current Ombudsman
activity to ensure Council standards and
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 Committee last convened in April 2013. Since then a full six months have elapsed during which time the Ombudsman has engaged with the Council on a number of service delivery issues. The purpose of this report is to inform the Committee of the nature of that activity and to assess whether recommendations should be made to the Council's senior management in order to address any identified issues.

RECOMMENDATIONS

1. That the Committee note the report.
2. That the Committee decide whether any recommendations should be made to the Council's senior management.

REPORT DETAIL

Background:

1. April 1 2012 saw the commencement of a year in which the LGO (along with many other public bodies) found itself working with far less resources at its disposal and yet with pressure to ensure high quality outcomes for those complaints which it deemed appropriate to investigate.
2. In previous years, Havering had a steady flow of communication from the LGO with a good percentage of premature complaints being referred back to the Council for it to attempt to resolve within its complaints process, but also a continuous stream of live investigations. Uniquely, the Council started April 2013 with no on-going complaints brought forward. All outstanding complaints were closed before 31 March.

Current Position:

3. During the year to date, the Council has seen a significant change in the way in which the Ombudsman handles complaints referred to her. At the end of September, Havering had received 59 contacts from the LGO in respect of 46 separate complaints (the difference being due to the rise of "enquiries" by the LGO to determine whether an investigation should be undertaken or not). Because there is no way of knowing whether an enquiry will result in an investigation, it is recorded as a distinct contact – as it will always result in the Council having to do some work in providing a response (perhaps with material information) to the LGO in order that she had sufficient data on which to make a decision.
4. If an investigation ensued, it is recorded as a distinct entity because investigations form the basis of the Ombudsman's Annual Letter and on which she bases her evaluation of how each authority is managing concerns from individuals and where that organisation sits in comparison with its neighbours and in the overall picture for England.
5. In order to ensure that Members and senior management receive the most relevant information, some changes have been made to the way in which information is recorded and displayed. The principal method of keeping Members informed of Ombudsman activity remains via a monthly "snapshot" with a brief summary in Calendar Brief. Unless the Committee considers this

practice should change, or has any suggestions for enhancing the information provided, it is proposed to continue with the current format.

6. For the best part of a year, CMT along with a number of Heads of Service and other officers have received a full set of statistics displayed in various ways in order to show the material from different perspectives. Appended to this report is a copy of the statistics e-mailed to CMT for Ombudsman (and Stage Three) activity up to 30 September.
7. Until now, the Committee has only really been presented with this level of detail when it convened, but at a time when the Council is coming under greater scrutiny from different agencies and the public at large, the Committee is asked whether it feels it would be helpful to its on-going oversight of Ombudsman activity if all members of the committee received copies of the information provided to management. If Members consider this would be beneficial – but that they do not want all of the information provided, it is possible to have a different version for the Committee.
8. The most significant development which can be now considered to be a “trend” is the notification of a final decision by the Ombudsman without the Council being asked to provide any information. Whilst these were not unknown before the start of the current year, they now account for around 50% of all LGO “decisions” – and a good many of those are on the grounds of being outside the Ombudsman’s jurisdiction.
9. There has also been a rise in the number of cases where the LGO notifies the Council of her “Provisional View” and asks the Council to comment if it wishes to. Whether the service involved takes advantage of this or not, a final decision usually follows around three weeks later. The number of actual investigations has, as a consequence of these changes in the way in which the Ombudsman works, decreased markedly – as the appendix clearly shows.
10. In the area of “premature complaints” there appears to be an ambivalence being displayed by the LGO. The Ombudsman stated – back in 2012/12 - that these would all but disappear because they would be deflected informally at the reception end of the process and complainants informed that if they had not used the council’s complaints process, they needed to do that before approaching the Ombudsman. In reality, some complainants get through this pre-selection and an Investigator (at the Assessment phase) decides that the issue ought to be considered by the authority involved before the LGO’s resources were used and so refers the complaint back to the council.
11. Whilst there are a few referrals, there are far fewer than in the previous two years (when the Ombudsman centralised her reception area for three regional offices in Coventry and promoted the “Council First” code of practice. Since then, apart from the dramatic drop in referrals the Ombudsman now no longer monitors those cases so referred – though if the Council showed dilatoriness in addressing the complaint and the complainant returned to the Ombudsman at the end of the process, that could be considered to be an unacceptable factor and the Ombudsman could be quite critical of a council which did that on a regular basis (it would almost certainly involve some element of maladministration in any case).

Data:

12. In September, a new graphic was added to those already available. This matrix shows, at a glance, the relationship between enquiries, referrals (prematures) and investigations. Where an enquiry is linked to a referral or investigation, they are shown linked. Other “stand alone” contacts are shown as such.

The Future:

13. The recent appearance on the scene of the Housing Ombudsman Service (HOS) cannot be ignored. At the time of this report, Havering has had only a limited contact from his office and it is clear that he has quite a different methodology which it is going to be interesting to see how it works out.
14. Initially informed that the practice was “broadly similar” to that of the LGO, it transpires that it is anything but. The HOS’s approach is to work along-side the parties as they move through the complaints process – the “critical friend” approach. This has the effect of adding another level of intrusion for the service involved in the complaint as it must balance its resources against the “advice” from the HOS and what the complainant wants the Council to do to address their complaint to their satisfaction.
15. Whilst this is pure speculation at this point in time (and on such a limited base), the impact of the HOS needs to be carefully monitored as it is likely that, as his service becomes better known, the HOS will begin to increase in prominence – in much the same way as the LGO did a decade or so ago.
16. As far as can be seen at this mid-point in the year, the number of contacts from the Ombudsman looks as though it will remain broadly the same as the past few years – around 100+ for the whole year – but Ombudsman activity is not something which can be pre-determined and so such forecasts can be, at best, only an approximation and at worst, meaningless that is why it remains vitally important for Members to “keep their fingers on the pulse” of complaints in general and the external scrutiny and activity of the Ombudsmen.
17. In conclusion, it is reasonable enough to expect the actions of the various Ombudsmen (and we cannot omit mention of the Parliamentary and Health Service Ombudsman [PHSO] from the list) to continue to feature as a real factor in the scrutiny of the Council’s management of the complaints of the residents (or otherwise) of Havering and so it is important that the Committee continues to involve itself in, monitor and direct the oversight of this important element of the Council’s corporate activity.

IMPLICATIONS AND RISKS

Financial implications and risks:

None directly associated with this report, but timely reminders could avoid unnecessary cost to the Council in having to pay compensation and making good what should have been done first time.

Legal implications and risks:

There are no direct legal implications 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

Appendix