

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

14 SEPTEMBER 2017

**REPORT OF SENIOR
MANAGEMENT TEAM**

CABINET DECISION

Leader of the Council – Councillor Cook

**LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN (“Ombudsman”) COMPLAINTS
– THE LOCAL AUTHORITY REPORT FOR STOCKTON 2016/17**

1. Summary

This report provides Cabinet with details of the Ombudsman’s annual review letter for the Council for 2016/17.

2. Recommendations

- It is recommended Cabinet note the report which sets out that no formal public interest reports have been received and three Ombudsman decisions were upheld for the year 2016/17.
- It is recommended that Cabinet note that effective procedures remain in place to ensure that all learning from Ombudsman findings takes place.

3. Reasons for the Recommendations

To ensure Members are aware of the position regarding complaints to the Ombudsman about the Council.

4. Members’ Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council’s code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member’s judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or

- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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SUMMARY

The report provides Cabinet with details of the Ombudsman’s annual review letter for the Council for 2016/17.

RECOMMENDATIONS

- It is recommended Cabinet note the report which sets out that no formal public interest reports have been received and three Ombudsman decisions were upheld for the year 2016/17.
- It is recommended that Cabinet note that effective procedures remain in place to ensure that all learning from Ombudsman findings takes place.

DETAIL

1. The Ombudsman has published the annual summary of statistics on the complaints and enquiries received about the Council and the decisions made in that respect for the year ended 31 March 2017.
2. It is positive to note that, whilst of course all complaints are considered very seriously and all recommendations and learning are adopted, there have been no formal public interest reports issued during the year and only three decisions upheld following detailed investigation by the LGO.
3. A copy of the 2017 review letter and statistics tables are attached at **Appendix 1** to the report. A useful guide to interpretation of the Ombudsman’s statistics is available on the LGO website – <http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics> . A copy of the 2016 statistics table is also provided at **Appendix 2** for comparison purposes.
 - When comparing the two statistics tables, it can be seen that complaints across categories are largely consistent with total complaints/enquiries received in 2016/17 static at 39. Within this overall performance:
 - Complaints/enquiries about adult care services rose from (from 2 to 6)

- Complaints/enquiries about education and children's services reduced significantly (from 15 to 7); and
 - Complaints/enquiries about Environment Services reduced (from 7 to 3);
4. The number of decisions made by the Ombudsman in 2016/17 reduced slightly (from 45 to 41). The number of detailed investigations undertaken decreased significantly from 20 (in 2015/16) to 10 in 2016/17, and the number of complaints upheld also decreased significantly from 12 to 3.
 5. The 3 upheld complaints were remedied by the Council following the Ombudsman's involvement.

Annual Review of Local Government Complaints

6. Attached at **Appendix 3** is a press release from the Local Government Ombudsman providing details about the Ombudsman's annual review of Local Government complaints for 2016/17. This provides a national context for Stockton's complaint and enquiry statistics.
7. The report shows that nationally:-
 - The number of complaints and enquiries received by the Ombudsman reduced by 14% from the 2015/16 level. This contrasts with Stockton's figures, which are static.
 - The top three categories for complaints were in Adult Care Services, Education and Children's services and Planning which mirrors the situation in Stockton on Tees.
 - The number of detailed investigations upheld nationally increased to 54%, this compares with the reduction in the upheld percentage to 30% in Stockton on Tees.

COMMUNITY IMPACT IMPLICATIONS

8. There is no requirement for an assessment in relation to this report. The Ombudsman annual review, of itself, does not constitute a new policy, strategy or a change in the delivery of a service insofar as the Council is concerned. Any community impact implications arising as a result of responses to complaints will be assessed by the relevant service or Officer in that context, and at the appropriate time.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

9. None as a direct result of this report. The financial implications of individual complaints would be dealt with separately as part of the responses to those complaints.

Legal

10. There are no direct legal implications arising from the report. They may, however, arise on a case by case basis, depending on the particular circumstances of the complaint and related decision.

RISK ASSESSMENT

11. Existing management/operational systems and procedures are sufficient to control and minimise the risks arising to low to medium status.

COUNCIL PLAN POLICY PRINCIPLES AND PRIORITIES

12. The Ombudsman's annual review for the Council is relevant to the Authority's organisational and operational effectiveness.

CORPORATE PARENTING IMPLICATIONS

13. There are no corporate parenting implications arising from the report.

CONSULTATION

14. Ombudsman complaints information is reported on a quarterly basis to the Senior Management Team, and to Cabinet portfolio members for relevant areas. A copy of this report, and the annual review letters and statistics will also be made accessible to all Council Members via agenda.

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Education related? No
Background Papers: None
Ward(s) and Ward Councillors: The report affects all Members
Property Implications: None

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Appendix 1

20 July 2017

By email

Neil Schneider
Chief Executive
Stockton-on-Tees Borough Council

Dear Neil Schneider

Annual Review letter 2017

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGO) about your authority for the year ended 31 March 2017. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

The reporting year saw the retirement of Dr Jane Martin after completing her seven year tenure as Local Government Ombudsman. I was delighted to be appointed to the role of Ombudsman in January and look forward to working with you and colleagues across the local government sector in my new role.

You may notice the inclusion of the '*Social Care Ombudsman*' in our name and logo. You will be aware that since 2010 we have operated with jurisdiction over all registered adult social care providers, able to investigate complaints about care funded and arranged privately. The change is in response to frequent feedback from care providers who tell us that our current name is a real barrier to recognition within the social care sector. We hope this change will help to give this part of our jurisdiction the profile it deserves.

Complaint statistics

Last year, we provided for the first time statistics on how the complaints we upheld against your authority were remedied. This year's letter, again, includes a breakdown of upheld complaints to show how they were remedied. This includes the number of cases where our recommendations remedied the fault and the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. In these latter cases we provide reassurance that your authority had satisfactorily attempted to resolve the complaint before the person came to us.

We have chosen not to include a 'compliance rate' this year; this indicated a council's compliance with our recommendations to remedy a fault. From April 2016, we established a new mechanism for ensuring the recommendations we make to councils are implemented, where they are agreed to. This has meant the recommendations we make are more specific, and will often include a time-frame for completion. We will then follow up with a council and seek evidence that recommendations have been implemented. As a result of this new process, we plan to report a more sophisticated suite of information about compliance and service improvement in the future.

This is likely to be just one of several changes we will make to our annual letters and the way we present our data to you in the future. We surveyed councils earlier in the year to find out, amongst other things, how they use the data in annual letters and what data is the most useful; thank you to those officers who responded. The feedback will inform new work to

provide you, your officers and elected members, and members of the public, with more meaningful data that allows for more effective scrutiny and easier comparison with other councils. We will keep in touch with you as this work progresses.

I want to emphasise that the statistics in this letter comprise the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, but who may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

The statutory duty to report Ombudsman findings and recommendations

As you will no doubt be aware, there is duty under section 5(2) of the Local Government and Housing Act 1989 for your Monitoring Officer to prepare a formal report to the council where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration or service failure, and where the LGO has conducted an investigation in relation to the matter.

This requirement applies to all Ombudsman complaint decisions, not just those that result in a public report. It is therefore a significant statutory duty that is triggered in most authorities every year following findings of fault by my office. I have received several enquiries from authorities to ask how I expect this duty to be discharged. I thought it would therefore be useful for me to take this opportunity to comment on this responsibility.

I am conscious that authorities have adopted different approaches to respond proportionately to the issues raised in different Ombudsman investigations in a way that best reflects their own local circumstances. I am comfortable with, and supportive of, a flexible approach to how this duty is discharged. I do not seek to impose a proscriptive approach, as long as the Parliamentary intent is fulfilled in some meaningful way and the authority's performance in relation to Ombudsman investigations is properly communicated to elected members.

As a general guide I would suggest:

- Where my office has made findings of maladministration/fault in regard to routine mistakes and service failures, and the authority has agreed to remedy the complaint by implementing the recommendations made following an investigation, I feel that the duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. In a small authority this may be adequately addressed through an annual report on complaints to members, for example.
- Where an investigation has wider implications for council policy or exposes a more significant finding of maladministration, perhaps because of the scale of the fault or injustice, or the number of people affected, I would expect the Monitoring Officer to consider whether the implications of that investigation should be individually reported to members.
- In the unlikely event that an authority is minded not to comply with my recommendations following a finding of maladministration, I would always expect the Monitoring Officer to report this to members under section five of the Act. This is an exceptional and unusual course of action for any authority to take and should be considered at the highest tier of the authority.

The duties set out above in relation to the Local Government and Housing Act 1989 are in addition to, not instead of, the pre-existing duties placed on all authorities in relation to Ombudsman reports under The Local Government Act 1974. Under those provisions, whenever my office issues a formal, public report to your authority you are obliged to lay that report before the council for consideration and respond within three months setting out the action that you have taken, or propose to take, in response to the report.

I know that most local authorities are familiar with these arrangements, but I happy to discuss this further with you or your Monitoring Officer if there is any doubt about how to discharge these duties in future.

Manual for Councils

We greatly value our relationships with council Complaints Officers, our single contact points at each authority. To support them in their roles, we have published a Manual for Councils, setting out in detail what we do and how we investigate the complaints we receive. When we surveyed Complaints Officers, we were pleased to hear that 73% reported they have found the manual useful.

The manual is a practical resource and reference point for all council staff, not just those working directly with us, and I encourage you to share it widely within your organisation. The manual can be found on our website www.lgo.org.uk/link-officers

Complaint handling training

Our training programme is one of the ways we use the outcomes of complaints to promote wider service improvements and learning. We delivered an ambitious programme of 75 courses during the year, training over 800 council staff and more 400 care provider staff. Post-course surveys showed a 92% increase in delegates' confidence in dealing with complaints. To find out more visit www.lgo.org.uk/training

We were pleased to deliver children's social care and adult social care complaint handling courses to your staff during the year. I welcome your Council's investment in good complaint handling training and trust the courses were valuable.

Yours sincerely

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

Michael King
Local Government and Social Care Ombudsman for England
Chair, Commission for Local Administration in England

Local Authority Report: Stockton-on-Tees Borough Council
For the Period Ending: 31/03/2017

For further information on how to interpret our statistics, please visit our website:
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
6	5	5	7	3	3	2	8	0	39

Decisions made

Decisions made				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
3	0	14	14	7	3	30%	41

Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.
 The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
3	0

Local Authority Report: Stockton-on-Tees Borough Council
For the Period Ending: 31/03/2016

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Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
2	3	2	15	7	3	2	5	0	39

Decisions made

Decisions made				Detailed Investigations			Total
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	
5	0	12	8	8	12	60%	45

Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.

The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

The compliance rate is the proportion of remedied complaints where our recommendations are believed to have been implemented.

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement	Compliance Rate
6	3	100%

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Ombudsman releases complaints statistics for all local authorities

The Local Government and Social Care Ombudsman has published details of the complaints it has received about all local councils in England in 2016-17.

The Ombudsman investigates complaints about all local authorities and social care providers in England. Every year it publishes the information it sends to councils to help with transparency and improve local services for residents. This annual summary is the number of complaints and enquiries it has received about the council, and the decisions made about those complaints.

Local Government and Social Care Ombudsman, Michael King, said:

***“Our annual data release is a great opportunity for the public, councillors and council officers to gauge how their local authority responds to, and learns from, the complaints we receive about them.*”**

***“The best councils use our data to scrutinise the services they provide. I urge all councils to do that to make their services better in future.*”**

***“I want to encourage an open and mature attitude to complaints - one where they are valued within organisations as ‘free feedback’ and learning opportunities. Indeed, how an organisation deals with complaints says a lot about its culture.*”**

“The data we have issued, and wealth of information we publish on our website, are a valuable source of information about complaints handling and council performance. I would urge people to take a look to see how they can use it to improve or scrutinise their authority’s performance.”

While issuing the figures this week, the Ombudsman is keen to point out that a high number of complaints does not necessarily mean a council is performing poorly. It may indicate an authority that welcomes and encourages feedback, through a transparent system which signposts people appropriately when its own processes have been exhausted.

This year (2016-17) the Ombudsman received over 16,500 complaints and enquiries about councils. The greatest proportion were about Education and Children’s Services, followed by Adult Social Care, and Planning.

It’s not just about numbers though. What matters is the outcome of the complaints investigated in detail and over the year, across England, the Ombudsman upheld 54%. This is up from 51% in 2015-6, and 46% the previous year. The region with the highest proportion of complaints upheld was London (60%), and the lowest was the East Midlands (44%).

Overall, the Ombudsman was most likely to find fault in Adult Social Care cases (64% upheld), and least likely to find fault in complaints about Planning and Development (35% upheld).

Other statistics from across the country include:

- 26% of all complaints received over the past year are about London councils (4,230)
- the highest uphold rate for Children’s and Education Services complaints was in the north east, with 67% upheld, this compares with an uphold rate of 63% nationally
- Yorkshire had the lowest percentage of Children’s Services complaints upheld, at 58%
- the West Midlands area had the highest uphold rate for Adult Care Services at 73%, higher than the average of 64%
- the southern region saw the lowest proportion of complaints about Adult Care services upheld, at 52%
- the London area saw a higher proportion of complaints about housing than any other area in the country - they made up 23% of the area’s total complaint numbers, compared with a national average of 12%
- the Ombudsman upheld 61% of those housing complaints in the London area compared with a national average of 54%

One of the Ombudsman’s main roles is to remedy injustice, and try to put people back in the position they would have been in, had the fault not occurred. This year, the Ombudsman made 3,562 recommendations to put things right. This included apologies, financial remedies (for example paying for care which should have been provided) and procedural changes to help improve services for others.

Article date: 02 August 2017