

**Report of the Chief Officer, Customer Services**

**Report to the Corporate Governance & Audit Committee**

**Date: 30<sup>th</sup> September 2011**

**Subject: Report on the Local Government Ombudsman's Annual Letter 2010/11**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. This report provides comment and feedback for the Committee on the Local Government Ombudsman's Annual Letter for 2010/11.
2. The Annual Letter differs in content from previous years in that it does not provide feedback on the Ombudsman's view of the council's performance levels but does highlight four of the Local Settlements the council received during 2010/11. **See paragraph 3.2 and Appendix 2** of this report.
3. This report also brings together information and statistical data collated by the Corporate Customer Relations Manager with regards to the council's performance on Ombudsman cases received and dealt with during 2010/11. **See 3.9 – 3.29**
4. The Annual Letter for 2010/11 confirmed that for the third year in a row the council did not received any cases of Maladministration resulting in a public report. However, since the receipt of the Annual Letter, the council has received two public reports (in July 2011) with a finding of Maladministration, both reports were considered by the Executive Board on 7<sup>th</sup> September 2011. Brief details of the cases are given within this report, **see paragraphs 3.37 – 3.43.**

**Recommendations**

1. Members are asked to consider the issues raised in Ombudsman's Annual Letter and the further contextual information provided.

## 1 Purpose of this report

- 1.1 To discuss the Local Government Ombudsman's Annual Letter a copy of which can be found at the end of this report
- 1.2 To highlight the council's performance with regards to Ombudsman cases for the period April 2010 to March 2011.
- 1.3 To provide confirmation to the Corporate Governance and Audit Committee in its role of overseeing the council's Corporate Governance arrangements , as to the Councils overall good performance in relation to complaint handling including cases progressing to the Ombudsman.

## 2 Background information

- 2.1 Leeds City Council operates a two stage complaints process. At the first stage complaints are dealt with by a service manager from the service complained about. The manager investigates the issues raised, looks to resolve them and responds to the customer within the relevant timescale.
- 2.2 Should the customer remain unhappy after this stage, they can take their complaints to the second stage of the complaints process. At the second stage a more senior officer will investigate and respond to the customers' concerns. The officer will look at how the original complaint was dealt with and also respond to any further issues that the customer may have raised.
- 2.3 There is no further right of appeal to the council following completion of an investigation at stage 2 of our complaints policy. Any customer that progresses to stage 2 of our complaints policy will be advised in our response to them of their right to take their complaint to the Local Government Ombudsman's office should they be dissatisfied with the outcome.
- 2.4 In 2010/11 Leeds received 7,870 stage 1 complaints with 529 (6.78%) progressed to the second stage of our complaints process. Of those only 165 (2.09%) customer complained to the Local Government Ombudsman.
- 2.5 The Local Government Ombudsman provides an individual Annual Letter for every council each year and has done so since 2003/4. The first Annual Letter presented to the Corporate Governance & Audit Committee was for 2004/5. In previous years the Annual Letter has provided the council with valuable feedback as to the Ombudsman's view of our performance with regards to cases they have dealt with during the previous year. In the most recent Annual Letter for 2010/11 there has been a significant change in style in that no comment on our performance is provided.
- 2.6 When investigating complaints against a council the Local Government Ombudsman is looking for possible issues of maladministration and if found, can decide to issue a public report against the council.
- 2.7 For Members convenience, a copy of the Annual Letter for 2010/11 can be found at the end of this report. **Appendix 1.**

### 3 Main issues

- 3.1 This report brings together performance information with regards to all Ombudsman cases received and dealt with by the council during 2010/11.
- 3.2 The Annual Letter highlights four of the Local Settlement cases that the council dealt with during 2010/11. An update on these cases showing what actions the council has taken to ensure that the issues do not re-occur is provided at **Appendix 2** of this report.
- 3.3 As a council, we have a well embedded complaints policy which has been in place for a number of years. Year on year our performance levels on responding to customer complaints within timescale improves and for the fourth year in a row we saw a reduction in the number of cases received from the Ombudsman.
- 3.4 During 2010/11 a review of the complaints process was commissioned by the Assistant Chief Executive. A key outcome of the review was to encourage officers to look to resolve more complaints at the earliest stage in the process . The review put in place a more person centred focus with regards to complaint handling with personal contact between the investigator and the customers being key.
- 3.5 Services also now look to resolve certain issues raised by customers as complaints by contacting the customer by phone or face to face. Where possible, complaints are sought to be resolved in a less formal manner and in the first quarter of 2011/12, 134 issues were dealt with in this way.
- 3.6 To ensure robust checks on performance levels are in place, the Corporate Customer Relations Manager produces a performance report for the Customer Strategy Board every quarter detailing performance levels across the council with regards to compliments, complaints and Ombudsman cases.
- 3.7 In June 2011 the councils' own Annual Report on compliments, complaints and Local Government Ombudsman cases was presented to the Customer Strategy Board. Within the council's Annual Report all directors are required to provide feedback on any trends in complaints identified over the year and what actions were taken to address these. The directorates also provide feedback on their Local Settlements as part of the council's ongoing lessons learnt
- 3.8 The quarterly and annual reporting on complaint performance to the Customer Strategy Board is a key mechanism for ensuring that that the overall complaints process continues to be fit for purpose, is being effectively communicated, complied with and is regularly monitored .

### 3.9 Performance on Ombudsman Complaints 2010/11.

**Table 1 - Ombudsman - Complaints Received during 2010/11**

Service Areas	10/11	
Adult Services	9	
Children's' Services	3	
City Development	33	
Corporate Governance	6	
Early Years & Youth Services	0	
Education Leeds	32	
Environment & Neighbourhoods	26	
Policy, Planning & Improvement	0	
Resources	6	
Aire Valley Homes	12	
Belle Isle Tenancy Management	0	
East North East Homes	22	
West North West Homes	16	
<b>TOTAL</b>	<b>165</b>	

3.10 For the fourth year in a row we have seen a reduction in the number of Ombudsman cases received by the council.

2007/8	183 cases
2008/9	170 cases
2009/10	168 cases
2010/11	165 cases

3.11 Over the last year the Ombudsman's office started approaching the council more often in the form of an informal "enquiry", asking to look at our stage 1 & 2 responses or provide them with information updates on our dealings with a customer. Once this is received the Ombudsman Investigator then decides whether to open a full case or proceed straight to a closure letter.

3.12 Although this is beneficial in some cases as we do not then receive a full case for investigation and response, the timescales for responding to enquiries is usually shorter than the time given to respond to full cases. Whilst in the majority of cases the information needed is easily obtainable, in some cases detailed updates have been requested with short lead times.

3.13 As we have seen an increase in this type of approach by the Ombudsman's office, formal recording has now commenced on all enquiries received from April 2011. Should the Committee require it, commentary can be provided in next years report.

3.14 The Local Government Ombudsman has reported in the Annual Letter for 2010/11 that Leeds achieved an average response time of 26.1 calendar days against the target they have set of 28 calendar days. Although this is a higher number of average days that 2009/10 which was 21 calendar days, our focus remains the quality of the response, rather than the speed.

3.15 Our performance levels are positively impacted by the council's performance on Education Admission Appeal cases. These cases unlike all others received must be responded to within 14 calendar days. Education Leeds and Governance Services had an overall average response time of 9 calendar days on these cases over last year. The average performance for all other service areas was within timescale but ranged closer to the 28 calendar days allowed.

**Table 2 - Ombudsman – Case Decisions**

Period	No Mal-Admin.	LGO Discretion	Out of Jurisdiction	Local Settlement	Mal-Admin.	Total
2005/06	136	38	18	84	5	281
	48%	14%	6%	30%	2%	
2006/07	91	40	27	86	1	245
	37%	16%	11%	35%	1%	
2007/08	74	37	23	68	1	203
	36%	18%	11%	33%	1%	
2008/09	80	31	28	64	0	203
	39%	15%	14%	32%	0%	
2009/10	84	31	17	44	0	176
	48%	18%	10%	25%	0%	
2010/11	64	34	10	47	0	155
	41%	22%	7%	30%	0%	

3.16 The number of decisions received (155) in 2010/11 differs to the number of cases received (165) as some decisions received during 2010/11 were for cases that were received by the council in 2009/10. Detailed below are the current decision types along with an explanation as to what each decision means for the council.

No Maladministration	No or insufficient evidence of maladministration found.
LGO Discretion:	The Ombudsman has decided not to pursue the complaint.
Outside Jurisdiction:	Outside the Ombudsman's jurisdiction eg. a right of appeal exists.
Local Settlement:	Fault was found. Action agreed with the authority and accepted by the Ombudsman.
Maladministration:	Public Report - maladministration causing injustice.

- 3.17 On a positive note, cases closed with a finding of Ombudsman Discretion increased by 4% against 2009/10. However cases closed as Local Settlements also increased by 5% and findings of No Maladministration decreased by 7%.
- 3.18 Analysis was carried out on decisions reported by a number of other authorities (Sample authorities used were Birmingham, Bristol, Liverpool, Manchester, Newcastle and Sheffield) for 2010/11. Of the 7 authorities in the sample, 5 reported an increase of between 5% and 14% in the number of Local Settlements received, with Leeds reporting the lowest percentage increase.
- 3.19 Findings of No Maladministration and Ombudsman Discretion are findings of no fault against the council. Along with the 7% of cases with the finding of Outside Jurisdiction, this equates to 70% of all cases taken to the Ombudsman where no fault was found against the council.
- 3.20 Of the 165 cases received for 2010/11, 88 of them arrived already determined and closed by the Ombudsman, with no need for the council to carry out a full investigation. The remaining 77 cases were allocated out to services for full investigation and response.
- 3.21 For the third year in a row the Annual Letter received from the Ombudsman contained no cases of Maladministration proceeding to a public report. However given that this report helps to inform the Council's Annual Governance Statement for 2011, it is felt appropriate to bring the attention of the committee to two cases which were issued to the council on the 1<sup>st</sup> July 2011, i.e. after the receipt of the Ombudsman's Annual Letter. Both cases have been considered by the Executive Board at their meeting in September and are likely to be reported in the Ombudsman's Annual Letter for 2011/12. Brief details regarding these cases can be found at 3.37 - 3.43 of this report.

**Table 3 - Ombudsman – Financial Settlements**

Service Areas	Financial Settlement
Adult Services	£1,600
Childrens Services	£600
City Development	£17,650
Corporate Governance	0.00
Early Years & Youth Services	0.00
Education Leeds	£500
Environment & Neighbourhoods	£2,991.42
Policy, Planning & Improvement	0.00
Resources	0.00
Aire Valley Homes	0.00
Belle Isle Tenancy Management	0.00
East North East Homes	£1,740
West North West Homes	£400
<b>TOTAL</b>	<b>£25,481.42</b>

3.22 In total 47 of the 155 Ombudsman decisions received had a finding of Local Settlement. Local Settlements are decisions discontinuing an investigation because the Ombudsman is happy that an acceptable Local Settlement has been obtained between the council and the customer. These decisions relate to cases where there has been administrative fault and a remedy is agreed by the council during the course of an investigation. Should an acceptable settlement not be agreed, or the fault found to be severe, a finding of Maladministration would be made and a public report issued.

3.23 Detailed below are number of Local Settlement along with total financial settlements made by the Council with regards to Ombudsman cases since 2005.

05/06 = 84 cases	£69,000.00
06/07 = 85 cases	£35,471.00
07/08 = 68 cases	£42,000.00
08/09 = 65 cases	£67,866.75
09/10 = 44 cases	£16,575.35
10/11 = 47 cases	£25,481.42

3.24 Of the 47 Local Settlement decisions received for 2010/11 the highest single payment was £12,642.00 and was made by City Development. The settlement concerned poor notes on a case file leading to a lack of consistency when different case officers considered a planning application. This case was highlighted to the services management team and steps were taken to ensure that more effective handover of cases was put in place. **Appendix 2** provides further information on this case.

3.25 To benchmark our performance the Corporate Customer Relations Manager looked at the number of cases received and the decisions made for other authorities. The analysis took place against Birmingham, Bristol, Liverpool, Manchester, Newcastle and Sheffield and showed that Leeds had the highest percentage reduction in full cases received for last year, the smallest increase in Local Settlements (only Liverpool had a decrease and Manchester remained the same as 2009/10) and the smallest reduction in findings of no fault.

3.26 The information provided in this report along with the analysis carried out against other authorities demonstrates that Leeds continues its commitment to finding the right resolution to customer complaints. In 2010/11 Leeds received 7,870 formal stage 1 complaints with only 529 (6.78%) progressed to the second stage of our complaints process. Of those only 165 (2.09%) customer complaints were taken up by the Ombudsman with fault only being found in 47 (0.59%) of those cases.

**Table 4 – Premature Cases Re-submitted**

Service Areas	Premature Complaints Resubmitted	Local Settlement Decision
Adult Services	1	
Childrens Services	0	
City Development	2	1
Corporate Governance	2	
Early Years & Youth Services	0	
Education Leeds	0	
Environment & Neighbourhoods	0	
Policy, Planning & Improvement	0	
Resources	1	
Aire Valley Homes	3	
Belle Isle Tenancy Management	0	
East North East Homes	4	
West North West Homes	3	
	16	1

- 3.27 The council received 78 cases from the Ombudsman last year that had been to them prematurely. These are cases where the customer approached the Ombudsman before they had been through the council's own complaints process. Such cases are returned to the council so that we have a chance to resolve the issue via our complaints process.
- 3.28 A small number of these customers (16) were not happy with the outcome of our investigations and again approached the Ombudsman asking them to look at their case. Of the 16 cases only 1 was returned to us with a finding against the council of Local Settlement, all other cases were closed with decisions agreeing with the council's findings.
- 3.29 The case in question is detailed within the Ombudsman's Annual Letter and is the issue regarding a market trader – full details can be found at **Appendix 2**.
- 3.30 Developments detailed in the Annual Letter**
- 3.31 The Annual Letter provided updates on developments within the Local Government Ombudsman's office. Detailed below is a summary and information as to the impacts they have had in Leeds.
- 3.32 *Statement of Reason*  
During the past year the Local Government Ombudsman changed the content of the decision notices they send to the council. They now provide a statement of reasons to both the customer who has complained and to the council. These statements are very useful to both the customer and the council in summarizing the complaint and showing the Ombudsman's reasoning behind their decisions.



### 3.33 *Decision Descriptions*

In April 2011 the Local Government Ombudsman introduced a new IT system for their case management and also revised the descriptions of their decisions (eg: Local Settlement, Ombudsman Discretion). The new decision descriptions are intended to give a more precise representation of the actual work done and the outcome of the complaint for the customer and Councils. Although we have started to see some of these decisions already in Leeds, they will not be reported upon to the Committee until the next Annual Letter for 2011/12.

### 3.34 *Extended powers*

During 2010/11 the Local Government Ombudsman's powers were extended to deal with complaints in two significant areas the first one being around Adult Social Care.

3.35 From October 2010 all complaints connected to Adult Social Care services came under the Local Government Ombudsman's jurisdiction. The greater use of direct payments and personalised budgets means that it is important for the Ombudsman to be able to deal with such complaints irrespective of whether the council has arranged the care for the customer or not. The new powers gives customers who are self funded the same access to the Ombudsman as those who have assistance from the council. So far, none of the complaints received from the Ombudsman relate to these new extended powers.

3.36 The second area of change is regarding the Ombudsman starting to deal with complaints about schools. The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for the Ombudsman to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. Leeds is not one of the pilot areas and is therefore not currently impacted by this change. However the Education Bill currently before Parliament proposes to rescind this new jurisdiction from July 2012.

## **Public Reports**

3.37 Two Public Reports were received from the Local Government Ombudsman in July 2011. As they were received after 31<sup>st</sup> March 2011, they will be reported on in the Ombudsman's Annual Letter for 2011/12.

3.38 The first case was received by the council in November 2008 and a response provided to the Ombudsman's office in December 2008. After dealing with and responding to a number of follow up enquiries from the Ombudsman, the council was advised in July 2009 that the case was being considered for public report.

3.39 The second case was received in November 2009 and the Ombudsman's office received a response from the council in December 2009. As above, a number of follow up enquiries were dealt with and the council was notified in August 2010 that this case was also being considered for a Public Report.

3.40 Case one concerned a 14 year old child, who has complex needs including hearing loss, poor sight, learning difficulties and a range of physical and medical needs. Case two concerned a 16 year old looked after child in long term foster care, who has a number of learning difficulties.

- 3.41 Child 1's complaint details the failure to meet the provision in the child's statement of Special Educational Needs (SEN) and failure to provide appropriate respite care. Child 2's complaint details the failure to meet the provision in the child's statement of SEN and failure to provide specialist professional support when he was interviewed by Police and incurred a final warning.
- 3.42 The Ombudsman concludes in both cases that the council should offer an apology, financial recompense for lack of provision and time and trouble and also extra specialist educational support. In child 2's case there are also remedies to enable his successful transition into independent adult life.
- 3.43 The council accepted the Ombudsman's findings and is implementing the remedies. A paper supplying details of all actions around the issues raised in the public reports was presented to the Executive Board on 7<sup>th</sup> September.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 As this report is providing the Committee with information on past performance with regards to Ombudsman cases, no public, Ward Member or Councillor consultation or engagement has been sought.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 The Local Government Ombudsman has not highlighted any issues regarding Equality, Diversity, Cohesion or integration in the Annual Letter for 2010/11.

### **4.3 Council Policies and City Priorities**

- 4.3.1 The Local Government Ombudsman has not raised any issues that would impact on council priorities or city priorities.

### **4.4 Resources and Value for Money**

- 4.4.1 Complaints are free feedback from our customers as to what we could or should do better. Any officer within the council who has service specialist knowledge can and will be called upon to investigate and respond to customer complaints as part of their daily duties. In doing so, if they identify and implement service improvements, this ensures that we provide a better service to all future user.
- 4.4.2 When investigating a complaint, if there is fault, the earlier it is identified and addressed, the more cost effective the process is. With regards to Ombudsman cases, as a council we have a focus on learning from our Local Settlement cases as this is where fault has been found after the council has already investigated the issue. This in itself has a resource implication as we should have resolved the issue earlier but it also has a financial implication as this is where financial settlements are imposed. All cases of Local settlement are reported to the Customer Strategy Board to ensure that lessons are learnt corporately.

4.4.3 In this era of reduced budgets it is in the council's interest to look at reducing the number of Local Settlement cases and in turn the financial remedies that can accompany them.

#### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 As this report is providing an update on past performance relating to Ombudsman cases dealt with during 2010/11, it does not have any legal implications, none of the information enclosed is deemed to be sensitive or requesting decision going forward and therefore raises no issues for access to information or call in.

#### **4.6 Risk Management**

4.6.1 As this report is providing an update on past performance relating to Ombudsman cases dealt with during 2010/11, there are no significant risks identified by this report.

### **5 Conclusions**

5.1 In previous years the Annual Letter has provided the council with valuable feedback as to the Ombudsman's view on our performance with regards to cases that they have dealt with during the previous year. In the most recent Annual Letter for 2010/11 there has been a significant change in content in that no comment on our performance is provided but instead four cases are highlighted where fault was found against the council and Local Settlements agreed. This report includes the Council's response to the issues raised in the four cases which in turn demonstrate that Council has responded appropriately

5.2 This report has described the general arrangements in place for responding to complaints made by the public and has also described how in practice the Council both proactively seeks to resolve customer complaints at an early stage and also learn lessons from the issues raised through complaints. Whilst this report shows good performance in this respect, the Corporate Customer Relations Manager remains mindful of the current economic climate, the impact this may have on customer complaints and the need to continue to encourage services to resolve customer complaints at an early stage in the process with increased personal contact – not just for the customer's benefit but to also reduce the financial impact on council services.

### **6 Recommendations**

6.1 Members are asked to consider the issues raised in Ombudsman's Annual Letter and the further contextual information provided.

### **7 Background documents**

7.1 The Annual Compliments & Complaints Report for 2010/11 - presented to the Customer Strategy Board on 29<sup>th</sup> June 2010 – Author - Wendy Allinson – Corporate Customer Relations Manager.