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## Report of the Corporate Customer Relations Manager

### *Corporate Governance and Audit Committee*

Date: 29<sup>th</sup> September 2008

Subject: Government Ombudsman Annual Letter – 2007/08 Report

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#### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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## Executive Summary

1. Leeds City Council showed a 20% reduction in full and premature Ombudsman complaints received in 2007/08 compared to 2006/07.
2. The largest single area of complaint for 2007/08 was Housing. However it must be noted that there was a significant decrease in the number received from 121 in 06/07 to only 84 in 07/08, a reduction of nearly a third.
3. Of the 310 decisions made by the Ombudsman in 2007/08, there was only one decision of Mal Administration that went to Public Report against the council.
4. The Ombudsman's Annual Letter although on the whole complimentary about improvements we have made over the last year, reminds us that we still have areas to work on.
5. Work is still needed within services to improving the quality, clarity and timeliness of our responses.

## 1.0 Purpose Of This Report

- 1.1 To discuss the findings of the Local Government Ombudsman (LGO) Annual Letter of which a copy of the full letter can be found at Appendix 1 to this report.
- 1.2 To consider what service or performance improvement may be required.

## 2.0 Background Information

- 2.1 The LGO introduced an individual annual letter for every council for the first time in 2003/4.
- 2.2 The 2004/05 letter was the first annual letter to be presented to the Corporate Governance and Audit Committee.
- 2.3 For Members convenience the main points of the annual letter for 2007/08 have been summarized within this report. The full letter can be found at Appendix 1

## 3.0 Main Issues Complaints Received

- 3.1 Of the 35 Metropolitan Councils, only 11 of them received fewer Ombudsman complaints in 2007/08 than in 2006/07. Leeds City Council is one of those and showed a 17% reduction in Ombudsman complaints received in 2007/08 compared to 2006/07. This ranks Leeds as third out of the eleven Councils. ( Please note that this figures differs to the 20% quoted in the Executive Summary as the Ombudsman figures for all Metropolitan Councils are based on full cases only and excludes Premature cases).
- 3.2 The greatest decrease of 80% for a Metropolitan Authority was for Sefton Council. This reduction was reported as being partly due to the Council transferring out their Council Housing stock and therefore having fewer housing complaints. The second highest decrease was shown by Rotherham with a reduction of 23%.
- 3.3 The Ombudsman has not commented of why she feels there has been a reduction for Rotherham or Leeds in terms of complaints received. In general terms however, the Ombudsmen has commented that small reductions in the number of complaints received compared to previous year may signal improvements in service delivery and better complaint handling by local authorities.

**Table 1 – Complaints Received**

	Adult Social Care	Benefits	Children & Families	Education	Housing	Other	Planning & Building Controls	Public Finance	Social Services Other	Transport & Highways	Total
2007/08	7	6	4	26	84	57	65	9	0	17	275
2006/07	14	5	7	34	121	78	52	4	0	28	343
2005/06	13	11	12	79	127	54	61	5	2	18	382

- 3.4 Table 1 confirms information provided by the Ombudsman as part of their Annual Statistics supplied with the annual letter. The categories used by the Ombudsman for defining the type of complaint are close to those used by Leeds but do not match our service areas exactly. For example, the Ombudsman category “other” covers a number of areas such as Anti Social Behaviour, cemeteries, drainage, employment and pensions, land, leisure and culture and waste management.
- 3.5 The Ombudsman confirms the number of cases received for Leeds for the period April 2007 to March 2008 was 275, a reduction of 20% (this includes premature cases) on the previous years figure of 343. This continues the downward trend from 2005/06 when Leeds received a total of 382 cases.
- 3.6 Of the 275 cases the Ombudsman received in 2007/08, 107 were deemed to be Premature – this means that the Council had not had a proper chance to consider the complaint and respond to the customer. These cases were therefore returned to the Council to be dealt with through our complaints process.
- 3.7 The Ombudsman commented on the largest single area of complaint for Leeds being Housing but also noted a significant decrease in the number of complaints received from 121 in 2006/07 to only 84 in 2007/08, a reduction of nearly a third.
- 3.8 The Ombudsman also reported decreases in the number of complaints received for Education ( from 34 in 06/07 to 26 in 07/08), Transport & Highways ( from 28 in 06/07 to 17 in 07/08) and Adult and Children Services ( from 21 in 06/07 to 11 in 07/08) where the reduction is almost 50%.
- 3.9 The only area mentioned as having an increase in the number of cases received was Planning with a rise of 13 cases on the previous year. 65 cases were received in 07/08 and only 52 in 06/07. The Ombudsman did however state that there were a number of grouped complaints regarding the same matter.

### 3.10 **Commentary from City Development**

The Ombudsman has stated in their annual stats that 65 cases were Planning related issues. City Development have however received and had input on 66 cases. Although the Ombudsman shows a rise of 13 cases on the previous year, out of the 66 cases received:-

- 2 cases requested preliminary information where no decision has yet been made by the Ombudsman as to whether to investigate or not.
- 15 premature cases which were returned and handled at stages 1 and 2.
- 16 cases were received closed requiring no investigation.
- 2 cases were duplicated (logged twice as premature ombudsman cases)
- 3 do not relate to Planning and Building Control, but are for Legal Services, Housing Enforcement and Revenues Enforcement.
- 2 planning applications resulted in 5 separate Ombudsman cases

- 3.11 Leaving a total of 28 cases investigated and responded to in 2007/8.

### 3.12 Liaison and Timescales.

3.13 The target set by the Ombudsman for receipt of an initial response from the council is 28 calendar days.

3.14 In 06/07 the Council achieved an average of 28.9 days. In 07/08 the Council achieved an average of 31 calendar days, 3 days outside the target.

3.12 Work has been taking place during 2007/08 on improving the content and quality of our responses, this work was further marked at the beginning of 2008 with all services agreeing to Chief Officer sign off on all responses to the Ombudsman. This initially had a detrimental affect on response times whilst the process was bedding in. It is however six months since this process was put in place and services are aware of their responsibility to respond within timescales with Chief Officer sign off.

3.13 Work on improving the quality of responses and response times, continues to be a main focus for the Corporate Customer Relations Manager.

### 3.14 Decisions on Complaints

3.15 The Ombudsman made 310 decisions during 07/08. The number of decisions made is different to the number of cases received as some decisions will be on cases received during 06/07. There will also be some cases received between April 07 and March 08 that have not yet had a decision. These will be included in next years' figures.

### 3.16 Table 2 – Decisions made as a Percentage of the Total.

Total decisions made in 2007/08	Type of Decision	As a % of the Total
107	Premature	34%
74	No mal Administration	24%
68	Local Settlement	22%
37	Ombudsman Discretion	12%
23	Outside Jurisdiction	7%
1	Mal Administration	0.30%

### Anti Social Behaviour

3.17 Within the letter the Ombudsman draws attention to a number of complaints received this year regarding the Council's failure to respond effectively to some reports of Anti Social Behaviour (ASB).

3.18 The Ombudsman highlights that investigations revealed areas of serious concern about the management, supervision and working practices of some officers within this area. The letter does, however, go on to comment on the Council's positive response and actions regarding these concerns. Although a Public Report was avoided due to the Council's actions to improve services going forward, the working practices around Anti Social Behaviour must continue to be monitored to ensure that the improvements are sustained.

### **3.19 Commentary from the ASB Unit.**

Officers accepted the findings of the Ombudsman highlighting the weaknesses identified in the way that some Anti Social Behaviour cases had been handled.

3.20 As a result, changes have been made to the management and structure of the Anti-Social Behaviour Unit. A range of other measures have also been introduced to minimise the chances of anyone else having a poor experience.

- An improvement plan has been developed and actions taken include a full review of the performance monitoring framework and operational procedures for dealing with anti-social behaviour.
- Staff training on the new/revised procedures is currently being rolled out.
- A review of the service delivery agreement between the ASBU and the ALMOs has been completed.
- An improved process for responding to the needs of victims, including the development of a Victim Advice Pack and changes to the process for receiving and analysing feedback from victims, is now in place.

3.21 The Director of Environment and Neighbourhoods and the Executive Member are monitoring the progress of the improvement plan.

### **Adult Social Services**

3.22 Two specific cases were highlighted by the Ombudsman in the annual letter. Both cases belonging fully or in part to Adult Social Services. The first case was where the Ombudsman felt that the Council had failed to determine properly the complainants resources and therefore failed to properly assist with paying for residential care fees.

### **3.23 Commentary from Adult Social Services**

As stated in the Local Government Ombudsman's Annual Letter, Social Services complaints were roughly halved from 21 in 2006/07 to 11 in 2007/08. Of the 11 complaints, 6 related to Adults Social Care Services. Of the six cases, four were judged to be premature and the complainants were advised to use the local authority complaints process.

3.24 The initial complaint referred to in paragraph 3.22 above related to the outcome of a financial assessment, where a determination had been made that a service user had divested himself of his property in order to avoid paying care fees.

3.25 At issue in this case was that, the service user transferred a 50% share in his property by Deed to Gift his children (his wife had died previously and her share had already passed to their children). By August of the same year, the service user had been admitted into residential care. Officers determined that the service user had transferred the property knowingly and with the intention of avoiding charges. As a result the service user was required to fully fund his residential care.

- 3.26 The family were unhappy with the outcome of the financial assessment and complained to the Local Government Ombudsman. In the process of responding to the Ombudsman, the Manager undertook a further review of the Community Care Finance case file. The review identified concerns in respect of:-
- Responses to the family's earlier representations were not detailed enough and did not set out the Council's thinking clearly
  - Timeliness of legal advice, and a failure to record the advice provided to Legal Services
  - A failure to respond to an earlier representation from the family that stated that the Deed of Gift was made for legitimate reasons other than to avoid charges, and a
  - Dispute about the date of transfer to residential care
- 3.27 In view of the identified concerns, a revised financial assessment was undertaken, the outcome of which was to fund the service user's residential care fees and a refund of £12,655.18 to the service user for the fees they had already paid.
- 3.28 During 2007/08, 4 cases outstanding from 2006/07 were fully considered and decisions received. No evidence of mal-administration was found in two cases, however, one of the four remaining cases is the other Adult Social Service case referred to in the annual letter, which led to a Public Report and a settlement of £6,605.
- 3.29 **Commentary from Adult Social Services and Environment & Neighborhoods**
- 3.30 The second case highlighted in the Ombudsman letter investigation asked, why, for two years a seriously ill and profoundly disabled woman was without services which would have relieved her pain and discomfort? The background to case and summary of some of the improvements were detailed in the Executive Board Report of the Director of Environment and Neighborhoods and the Director of Adult Social Care dated 23 January 2008.
- 3.31 Satisfactory resolution of this case required cooperation and joint working between Adult Social Care, the Strategic Landlord, Environmental Health, the Adaptations Agency, the Medical Housing Team, two ALMOs, the Primary Care Trust and Leeds Teaching Hospitals NHS Trust.
- 3.32 This case highlights that the responsibilities of the Social Services under Section 2 of the Chronically Sick and Disabled Person's Act 1970 stand, and are not discharged once recommendation for adaptations has been passed through to the Environmental Health Service, a Housing Agency or their contractor.
- 3.33 As outlined in the Executive Board Report of 23 January 2008, actions are being taken by the various agencies involved, to ensure lessons are learned. Contact with the husband of the customer and the Advocate involved in this case is also continuing to ensure that their input and views on the proposed improvements are considered. In July 2008 a meeting took place involving all parties in this case to discuss what lessons could be learnt. As a result of this meeting the following actions were discussed:

- *All officers involved in delivering adaptations need to have a good understanding of all the relevant legislative powers and duties – training that was delivered in September 2006 is to be repeated in September 2008 and guidance for officers has been revised.*
- *All complex adaptation schemes for disabled people need to have an identified single coordinator on behalf of the Council – A case management process which includes this has been designed with the involvement of the complainant and advocate.*
- *The Council needs to have in place an Appeals process to resolve disputes regarding decisions on the adaptations / rehousing provided – An appeals panel process has been agreed by all services involved in delivering adaptations / rehousing for disabled people.*
- *The ALMO's Letting Policy needs to allow for "direct lets" in exceptional circumstances related to meeting housing needs of disabled people - This is now included in the lettings Policy.*

### **3.34 Training**

- 3.35 The Ombudsman draws attention to the range of training courses that they can provide to Authorities. Leeds has already taken advantage of the Good Complaint Handling and the Effective Complaint Handling.
- 3.36 This year Leeds requested and received bespoke training, created specifically for Leeds Officers by the ombudsman. The training was run over 3 separate days with a total of 39 officers from across the council attending.

### **3.37 LGO Developments**

- 3.38 The LGO reports that in April this year the new LGO Advice Team was launched. The Council welcomes this change but has highlighted an issue to the LGO regarding the LGO Advice Team in Coventry not being on the same IT systems as the Investigators in York. This means that the Advice Team do not have access to information about previous complaints and complainants.
- 3.39 This can be and has been an issue when persistent customers known to York commence contacting the new Advice Team regarding complaints that have already been investigated. This has been highlighted to the Assistant Ombudsman who confirmed that his office will monitor the situation.

## **4.0 Implications For Council Policy And Governance**

- 4.1 There are potential implications for Council Policy and Governance if lessons are not learnt on Ombudsman complaints.

## **5.0 Legal And Resource Implications**

- 5.1 This report is not considered to have any specific legal or resource implications, although individual LGO complaints may have both legal and financial implications, e.g. local settlements and Public Reports.

## **6.0 Conclusions**

- 61 The Ombudsman's Annual Letter although on the whole complementary about improvements we have made over the last year, reminds us that we still have areas to focus on.
- 6.2 Work is still needed on improving the quality and clarity of some of our responses.
- 6.3 Services where complaints remain at a high level must continue to analyse trends, lessons learnt and change processes / procedures where failures are identified.

## **7.0 Recommendations**

- 7.1 Members are asked to note the performance information and issues raised within.