

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

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

**Date: 28 September 2012**

**Subject: Report on the Local Government Ombudsman's Annual Review Letter 2011/12**

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 Corporate Governance and Audit Committee's Annual Governance Statement on the Local Government Ombudsman's (LGO) Annual review letter for Leeds, dated 22 June 2012.
2. The letter confirms the number of cases that the LGO has completed investigation during 2011/12 was 107 enquiries and complaints. For the first time in a number of years the LGO reported publicly on four cases where fault was found with the council. Of the remaining 103 cases, the LGO found no evidence of fault in 60 cases. The average number of days taken by the council to respond to an investigation is 26.5 calendar days, continuing the council's record of performing better than the 28 calendar day standard set by the LGO.
3. The LGO has written a brief letter to the council which accompanies the summary. The letter lists some future changes to the scope of the LGO to no longer investigate housing, or schools in pilot areas, and outlines recent LGO reports and case studies. It also highlights one case of a complaint where the council mishandled a tenant's rent, and missed a number of opportunities to rectify the situation.
4. Using the LGO Annual Review Letter and summary and an overview of the complaints to the council during 2011/12, this report sets out the council's arrangements for responding to complaints made by the public, the key objectives of which are to make it easy for people to complain, to try to resolve complaints at an early stage and to learn lessons from the issues raised through complaints. In

particular, the report shows the comparatively small number of complaints which are not resolved during the early stages of our complaints process, and then proceed to the LGO. The report also shows the comparatively small number and proportion of LGO investigations which find fault on the part of the council, and the low number and value of financial settlements. This provides assurance that the council's processes for handling complaints are, on the whole, working well.

## **Recommendations**

- 1 Members are asked to consider the issues raised in the LGO's Annual Review Letter and the supporting contextual information provided in the appendices.
- 2 Members are asked to note the contents of the report and the assurance it provides as part of the council's Annual Governance Statement.

### **1 Purpose of this report**

- 1.1 To summarise the council's complaints and LGO cases for the period 1 April 2011 to 31 March 2012.
- 1.2 To discuss the LGO's Annual Review Letter to the council, a copy of which can be found in **Appendix 2**.
- 1.3 To assess the overall effectiveness of the council's approach to complaints.

### **2 Background information**

- 2.1 The LGO writes an individual Annual Review Letter to every council each year and has done so since 2003/04. The current letter continues the trend of recent years in that it does not contain any critical comment on the council's performance, although it draws attention to the council's handling of one housing complaint, discussed in sections 3.20 - 3.21. The letter's accompanying overview of cases also indicates that four public reports about the council were issued during 2011/12, discussed in sections 3.12 - 3.19. The LGO also issued a press release drawing local press attention to the Annual Letter for their local authority, discussed in section 3.19.
- 2.2 The council has a complaints policy and procedure which has been in place for a number of years, co-ordinated by directorate customer relations officers. The arrangements have three aims: i) to make it easy for people to complain to the council; ii) for the council to resolve complaints at the earliest stage possible; and iii) for the council to learn lessons from complaints to prevent them from recurring. The council operates a two stage complaints process. At the first stage complaints are dealt with by an officer or manager from the service complained about, who investigates the issues raised, looks to resolve them and responds to the customer within the relevant timescale.
- 2.3 Should the customer remain dissatisfied after this stage, they can take their complaint to the second stage of the complaints process. At the second stage, a more senior officer will investigate and respond to the customer's 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. Adult Social Care and

Children's Social Care have separate statutory procedures, and East North East and West North West Homes ALMOs have a third stage.

- 2.4 A customer who progresses to the final stage of our complaints policy is advised in our response of their right to take their complaint to the LGO's office should they remain dissatisfied with the outcome. The LGO advises customers to go through all stages of an authority's complaints procedure before investigating a complaint (see persistent complaints in section 3.7).
- 2.5 When investigating a complaint, if there is fault, the earlier it is identified and addressed, the more cost effective the process is. LGO cases have resource implications as we should have resolved the issue earlier, but also have financial implications as the LGO has the authority to impose financial settlements. All cases of local settlement are reported to the Customer Strategy Board to ensure that lessons are learnt across the council.

### **3 Main issues**

- 3.1 This report covers the following issues relating to the LGO Annual Review Letter and summary:
- Overview of complaints to the council;
  - Patterns and trends of LGO enquiries and complaints;
  - Summary of the four LGO formal reports;
  - Overview of the case highlighted by the LGO; and
  - Assessment of the effectiveness of the council's overall approach to complaints.

#### **Overview of complaints to the council**

- 3.2 LGO complaints are a very small proportion of complaints which are made to the council each year, summarised in **Appendix 1**. In 2011/12 the council received 6,073 stage one complaints with 415 (6.9% of all complaints) progressed to the second stage of our complaints process. Of those, 292 people (4.9% of all complaints) complained to the LGO, of which 107 (1.7%) were investigated and four (0.1% of all complaints) found fault in a formal report.
- 3.3 In July 2012 an annual report on 2011/12 compliments, complaints and LGO cases was presented to the council's Customer Strategy Board, details of which are summarised in **Appendix 1**. As part of the annual report process, all directors are required to provide feedback on any trends in complaints identified over the year and what actions were taken to address them, with particular attention given to cases where the council has been instructed to make a payment. This process is important in delivering one of our objectives in relation to learning from complaints.

#### **Patterns and trends of LGO enquiries and complaints**

- 3.4 The summary, including an overview of other enquiries which were not investigated, is provided as **Appendix 3**. Members should note that the number

of investigations carried out during 2011/12 (140 = 19 resubmitted and 121 new) is different from the number of the decisions made (164), owing to the number of investigations which start in one council year and end in a different council year. The number of decisions also includes complaints that the LGO have not investigated because the subject is outside of the LGO's jurisdiction.

- 3.5 During 2011/12, the LGO investigated 107 enquiries and complaints, reporting on four cases where fault was found with the council, see sections 3.12 – 3.19 below. Of the remaining 103 cases, the LGO found no evidence of fault in 60 cases; the injustice was remedied during the investigation in 30 cases, and found minor injustice in 13 cases. The average number of days taken by the council to respond to an investigation is 26.5 calendar days, continuing the council's record of performing better than the 28 calendar day standard set by the LGO. The number of decisions in 2011/12 (164) changed only slightly on the previous year (165). There has however been a reduction (from 76 to 49) in the number of cases where the LGO has provided advice or clarification, but not investigated, and a fall in the number of cases where the complaint is resubmitted to the LGO.
- 3.6 The LGO received around the same number of enquiries and complaints about the council in 2011/12 (292) as it did the previous year (299). This figure includes premature complaints, which has doubled from 52 to 103. There is no apparent reason for the increase in premature complaints. The council will, together with the LGO, monitor this trend in the current financial year.
- 3.7 In relation to local settlement themes, a number of recent cases have highlighted the importance of accurate record keeping, particularly to evidence what officers consider when they make key decisions and that they have given appropriate and due regard to material considerations. This has been highlighted about several cases received during 2011/12 including Planning, Council Tax and Children's and Young People's services.
- 3.8 The LGO also asked the council this year to consider its processes about informing customers about a right of appeal. In one case the LGO advised the council of the danger of 'getting too enmeshed in the structure of a complaints procedure where resolution can only be achieved elsewhere'. In two other cases involving separate council services, the council failed to notify a customer of their appeal rights, in one case because the customer's correspondence was treated as informal correspondence. In all three cases the council accepted that the failure not to emphasise a right of appeal was its fault.
- 3.9 The nature of complaints by service area is broadly similar to previous years, with around a third (31%, the same as last year) of all complaints being about Housing, although a slightly lower proportion of these become investigations (24%, compared to 23% last year). The next highest service area is Education and Children's Services, with 21% complaints (compared to 17% last year), and 27% investigations (compared to 26% last year).
- 3.10 The number and value of LGO cases resulting in a financial local settlement has also reduced, and although not detailed in the report is summarised below:

08/09 = 65 cases    £67,867

09/10 = 44 cases    £16,575

10/11 = 47 cases    £25,481

11/12 = 35 cases £16,064

The reduction in financial local settlements is again another indicator of a complaints process which is working well.

### **Summary of the four LGO public reports**

- 3.11 The LGO summary notes that the council received four public reports during 2011/12, the first such reports the council has received since 2007. A public report is issued when the LGO has carried out an investigation into a complaint and found sufficient maladministration causing injustice to consider that their findings should be made public. Public reports must be made available for a period of three weeks at two public access offices within the council and also on the council's website. A notice is put in two local papers to advise where the reports can be viewed.
- 3.12 The reports detail four cases where the LGO had written a report, finding the council (and in one case other agencies) at fault of maladministration causing injustice.
- 3.13 Cases 1 and 2 concerned the needs of a severely disabled child, where for a significant proportion of the school week, the council failed to provide adequate care and education. The LGO also found the council at fault for failing to assess the child's needs and those of her family, and for failing to provide adequate respite care.
- 3.14 Case 3 involved the council's duties as a corporate parent to safeguard and promote the welfare and educational attainment for the complainant's foster son, who is a looked after child. The failures continued over a long period despite the complainant making frequent and persistent representations, and as a result doing more than would be expected of a foster parent.
- 3.15 The LGO issued a public report on cases 1, 2 and 3 on 1 July 2011. The director of children's services subsequently presented a report on all 3 cases to the council's Executive Board on 7 September 2011. In presenting the report, the chair and the board conveyed their unreserved apologies for the service which the children involved and their families had received. In addition, tribute was paid to the families for their resilience and determination throughout the process. The Director of Children's Services also took the opportunity to outline the actions which had been and continued to be taken to ensure that such instances of maladministration did not occur again.
- 3.16 Case 4 involved Adult Social Care and Leeds Joint Care Management Team about actions taken regarding the complainant's mother who had been discharged into residential care. The LGO found maladministration in preventing the complainant from seeing her mother between 19 December 2008 and 02 February 2009, and for failing to review the situation after any of the nine contacts from the complainant.
- 3.17 The council received the public report for case 4 on 29 November 2011, following which the directorate submitted a report to the council's Executive Board on 4 January 2012. In presenting the report, the board and the Chief Executive conveyed their full and unreserved apologies to the family concerned for the service which they had received. In addition, the board acknowledged the swift

and positive actions taken by both the council and Leeds Community Healthcare NHS Trust following receipt of the complaint. Tributes were also paid to the invaluable work which continued to be undertaken throughout the city within the area of Adult Social Care. The board also noted that this case dated back as far as 2008 and that since then the council has provided a significant training programme to workers in the areas of safeguarding vulnerable adults and the Mental Capacity Act.

- 3.18 These cases have involved the input of the Director of Adult Social Care and the Director of Children's Services, discussion at Executive Board, and has involved a thorough lessons learned exercise to prevent future problems from happening.

### **Overview of the case highlighted by the LGO in the annual letter**

- 3.19 The LGO's letter made reference to a specific case which the LGO wanted to draw the council's attention. The LGO did not specify why this particular case had been singled out, or that they were expecting any further action to be taken in this case. Members may recall that The Yorkshire Evening Post printed this story on Saturday 14 July 2012. New arrangements have been put in place to ensure that the council's Communications Team are appropriately briefed on receipt of the Annual Review Letter.
- 3.20 In November 2011 the LGO made enquiries of the council regarding a case where the council had mishandled a family's rent arrangements, and over several months missed many opportunities to correct the problem. The council accepted that they had failed to properly investigate the rent arrears which led to the council issuing the tenant with a notice of seeking possession. In recognition of the distress caused, the council wrote to the LGO to offer to pay the tenant £500 plus a further £95 in decoration vouchers. The LGO accepted the council's recommended remedy and closed the case on 20 February 2012.
- 3.21 A thorough lessons learned exercise has been undertaken to prevent future problems from happening and has identified a number of actions to be implemented. This includes a commitment to review internal procedures and brief staff on any changes in process. The service also recognised the importance of accurate record keeping on ICT systems and has taken steps to improve visibility across teams and services.

## **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 LGO cases, no consultation or engagement has been sought.

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

- 4.2.1 The LGO has not highlighted any issues regarding Equality, Diversity, Cohesion or integration in the Annual Letter for 2011/12.

### **4.3 Council policies and City Priorities**

- 4.3.1 The LGO 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 on what we could or should do better. Any officer in 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, it will ensure that we provide a better service in the future, and as section 2.5 stated, the earlier the problem is addressed, the more cost effective is the complaints process.

#### **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 LGO cases dealt with during 2011/12, it does not have any legal implications. None of the information enclosed is deemed to be sensitive or requesting decision 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 LGO cases dealt with during 2011/12, there are no significant risks identified by this report.

### **5 Conclusions**

- 5.1 In previous years the Annual Review Letter has provided the council with valuable feedback as to the LGO's view on our performance during the previous year. The letter does not comment on our performance, but highlights one case where fault was found against the council and a local settlement agreed. The letter also states that the LGO knows that 'the council has a good process for learning from complaints to avoid problems recurring.'
- 5.2 This report has described the general arrangements in place for responding to complaints made by the public. It has also described how in practice the council seeks to make it easy for people to complain to the council, to resolve customer complaints at an early stage and to learn lessons from the issues raised through complaints.
- 5.3 The report has identified the three key objectives in relation to complaints handling are to make it easy for people to complain, to resolve complaints at an early stage and to ensure that lessons are learnt from complaints. The information detailed in this report enables the council to give assurance that the current system is fit for purpose in this respect, and this provides assurance that complaints are operating as intended.

### **6 Recommendations**

- 6.1 Members are asked to consider the issues raised in LGO Annual Review Letter and the further contextual information provided.

6.2 Members are asked to note the contents of the report and the assurance it provides as part of the council's Annual Governance Statement.

## **7 Background documents**



## Appendix 1 Summary of complaints to Leeds City Council 2011-12

### Volume of complaints

The volume of complaints has fallen to its lowest level over the past five years. The number of complaints at both stages 1 & 2 of the complaints procedure fell considerably from previous years. Stage 1 complaints fell by 23% from 7,870 to 6,073 across the council (including ALMOs). Stage 2 complaints also fell by a similar rate over the previous year, and while the number of Local Government Ombudsman (LGO) decisions remained constant at 164, the number where fault found has reduced from 47 last year to 38 this year.

**Table 1 - Overview of Performance**

	2007/08	2008/09	2009/10	2010/11	2011/12
Complaints - Stage 1	6,466	7,632	7,496	7,870	6,073
Complaints - Stage 2	314	523	529	534	415
LGO cases received	183	170	172	165	164
Complaints response within standard	63%	72%	79%	86%	77%

### Effectiveness of complaint handling

Useful measures of the effectiveness of our complaint handling are:

- percentage of complaints that are escalated to stage 2 (7% 2011/12, the same as 2010/11);
- amount of financial settlement agreed by the LGO (£16,064 2011/12, down on £25,481 2010/11; and
- % of cases where fault found by the LGO (23% 2011/12, the same as 2010/11).

These indicators point to how effectively we handle complaints at the earliest opportunity, particularly where we do not need to have the LGO intervene. While the proportion of complaints escalated to stage 2 has remained constant, the overall volume has reduced, and the LGO has found fault in 23% of cases received.

This continues to reflect an improvement as the number of cases investigated fell, as did the number of LGO cases where fault found, from 47 in 2010/11 to 38 in 2011/12.

### Responsiveness to customers

Overall, the % responses within standard has fallen to 77% against a target of 95%. This is somewhat disappointing, and possibly reflects a tightening of resources. The ALMOs and Customer Access & Performance have performed very well and met the target of 15 working days to respond to customer complaints at stage 1. Other areas are close (within 10%) to meeting the corporate target: Belle Isle TMO, Children's Services, City Development, and Resources.

However, significant performance improvements are needed in the following areas:

- Adult Social Care (79%)
- Children's Social care (55%)
- Former Corporate Governance services (77%)
- Environment & Neighbourhoods (53%)

Responses to the LGO remain within the agreed timescales.