

Report of the Director Legal and Governance

Audit Committee 10th December 2014

REVIEW OF OMBUDSMAN COMPLAINTS 2013/2014

1. Purpose of Report

- 1.1 To provide to the Committee an overview of the position with regard to complaints against the Authority by the Ombudsman for the financial year 2013/2014.

2. Recommendation

- 2.1 That the report be noted.

3. Background

- 3.1 The Local Government Ombudsman provides a free independent impartial service which considers complaints against the administrative actions of Local Authorities. As such complaints to the Ombudsman constitute an independent source of assurance as to the governance of the Authority. They are taken into account as part of the review of the Authority's internal control framework leading to the production of the Annual Governance Statement.
- 3.2 There are 3 Local Government Ombudsman offices in England with 1 Central Advice Team, which is the single point of contact for all public enquiries and new complaints. The Local Government Ombudsman accepts complaints made by telephone, as well as written and emailed formats. Wherever possible this Central Team seeks to resolve complaints informally on first receipt without the need to refer the complaint to an Investigator.
- 3.3 The team which deals with the complaints which require more detailed investigation for Barnsley is based in York. Dr Jane Martin the remaining Local Government Ombudsman in office is ultimately responsible for overseeing their work following the retirement of Anne Seex who was previously the Ombudsman attached to the York office. It is anticipated that the Ombudsman service will move to be overseen formally by one single Ombudsman for the whole of England and Wales although the wider role of the Local Government Ombudsman service and its relationship with other related Ombudsman services is likely to be the subject of wider review. The view is emerging that there may be advantages in a single Ombudsman for all Public Services although this will require primary legislation.

4. Current Position

- 4.1 Attached as Appendix 1 is a copy of the Annual Letter produced by the Local Government Ombudsman. This provides an overview of the position with regard to complaints made against the Authority for the financial year 2013/2014. It will be noted that the Ombudsman service has changed the way in which they are compiling complaints statistics which has an impact on the scope for analysis.
- 4.2 An explanatory note is also attached from the Ombudsman's service which explains the new approach to the analysis and collation of complaints information.

- 4.3 This approach is more helpful than the information provided for 2012/13 where the Ombudsman's service was only able to provide information with regard to the total number of complaints made against the Authority. Comparative information for 2011/12 and 2010/11 is also attached although these figures are compiled on a different basis.
- 4.4 The figures do suggest however that there is no significant trend with reference to the overall number of complaints which have been made to the Ombudsman in respect of Barnsley and likewise no significant trend in the subject areas where complaints have been received. Nationally as shown by the attached extract from the Local Government Ombudsman's Annual Report for 2013/14 there is an increasing trend in relation to complaints relating to Adult Care Services and Education and Childrens Services which reflects the pressure on resources in those areas. There has been a downward trend in recent years nationally in relation to planning and housing complaints and this reflects the experience in Barnsley.
- 4.5 There is no direct relationship between the number of complaints received in the period and the number of actual decisions made, as the decision outcomes may relate to complaints received in the previous year and some decisions are not made until the following year; generally those cases which are more complicated and which require some time for an investigation to be completed. Experience locally is that it is complaints relating to Adult care services or Education and Childrens services which inevitably present greater complexity and can take longer to investigate and resolve.
- 4.6 It will be noted that the Ombudsman's service now records a complaint as either upheld or not upheld. The previous categories for recording complaints have been discontinued. However an important distinction needs to be drawn between those complaints which are upheld but resolved informally and where there is a formal finding of Maladministration and a report is issued by the Ombudsman which must be subject to public notice and inspection.
- 4.7 The issue of a formal report is reserved for the more serious cases and no such report or formal finding of Maladministration was issued in respect of the Authority for 2013/14. The 5 complaints which were upheld by the Ombudsman did not raise any issues of concern with regard to internal control or operating practices and procedures and were resolved to the mutual satisfaction of the complainant and the Ombudsman. Previously complaints of this nature were classified as local settlements. The small number of complaints falling within this category is of a similar number to the comparable figures for recent years for local settlements.
- 4.8 Complaints which are now categorised as "Rerferred back for Local Resolution" were previously recorded as Premature Complaints which had not been dealt with initially through the Council's complaints procedure. The number of complaints in this category is broadly comparable with those which in previous years had been recorded as Premature.
- 4.9 The conclusion can be drawn that there are no significant issues of concern identified arising from complaints made to the Local Government Ombudsman for the previous financial year 2013/14. Where the Investigation Team has become involved it has been concluded in other than 5 cases that there is no evidence or at insufficient evidence of maladminstration. The complaint has been closed following initial inquiries in around 20 cases. Overall there is nothing arising from any complaints to the Ombudsman therefore which raises any wider internal control or governance issues which impact on the role of the Audit Committee.

5. Recommended Approach

5.1 That the report be noted.

6. Appendices

6.1 Local Government Ombudsman Annual Audit Letter and related complaints statistics.

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Date: 2nd December 2014

APPENDIX 1
Local Government
OMBUDSMAN

7 July 2014

By email

Ms Diana Terris
Chief Executive
Barnsley Metropolitan Borough Council

Dear Ms Diana Terris

Annual Review Letter 2014

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2014. This is the first full year of recording complaints under our new business model so the figures will not be directly comparable to previous years. This year's statistics can be found in the table attached.

A summary of complaint statistics for every local authority in England will also be included in a new yearly report on local government complaint handling. This will be published alongside our annual review letters on 15 July. This approach is in response to feedback from councils who told us that they want to be able to compare their performance on complaints against their peers.

For the first time this year we are also sending a copy of each annual review letter to the leader of the council as well as to the chief executive. We hope this will help to support greater democratic scrutiny of local complaint handling and ensure effective local accountability of public services. In the future we will also send a copy of any published Ombudsman report to the leader of the council as well as the chief executive.

Developments at the Local Government Ombudsman

At the end of March Anne Seex retired as my fellow Local Government Ombudsman. Following an independent review of the governance of the LGO last year the Government has committed to formalising a single ombudsman structure at LGO, and to strengthen our governance, when parliamentary time allows. I welcome these changes and have begun the process of strengthening our governance by inviting the independent Chairs of our Audit and Remuneration Committees to join our board, the Commission for Administration in England. We have also recruited a further independent advisory member.

Future for local accountability

There has been much discussion in Parliament and elsewhere about the effectiveness of complaints handling in the public sector and the role of ombudsmen. I have supported the creation of a single ombudsman for all public services in England. I consider this is the best way to deliver a system of redress that is accessible for users; provides an effective and comprehensive service; and ensures that services are accountable locally.

Local authority report – Barnsley Metropolitan Borough Council

For the period ending – 31/03/2014

For further information on Interpretation of statistics click on this link to go to <http://www.lso.org.uk/publications/annual-report/note-interpretation-statistics/>

Complaints and enquiries received

Local authority	Adult care services	Benefits and tax	Corporate and other services	Education and children's services	Environmental services and public protection and regulation	Highways and transport	Housing	Planning and development	Total
Barnsley MBC	4	11	6	10	12	5	9	8	65

Decisions made

Local authority	<u>Detailed investigations carried out</u>		Advice given	Closed after initial enquiries	Incomplete/invalid	Referred back for local resolution	Total
	Upheld	Not upheld					
Barnsley MBC	5	14	2	18	6	29	74

Local Government OMBUDSMAN

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Note on interpretation of local authority statistics

Complaints and enquiries received 2013/14

The information below covers the statistics included in the annual reviews to councils for 2013/14. If you want information about interpreting the statistics for previous years - please click on the download in the box on the right hand side.

LGO has published statistics for each of the authorities within its jurisdiction for many years. In April 2014, we changed how we classified the results of complaints. We now describe our decisions in terms of upholding and not upholding complaints, which brings us closer in practice with how other Ombudsman schemes and many local authorities describe their decisions.

It must be remembered the bare numbers of complaints against an authority do not prove that it is a 'bad' or 'good' council. The larger the population an authority serves, the more likely we will receive complaints about it. A significant uplift in complaint numbers again does not necessarily show that a council has become worse at what it does. We may have received several complaints about the same issue from different residents, for example a controversial planning decision or application. An authority may have a 50% uplift in complaints against it, but when we received two complaints against it last year, and four this year, this cannot lead to the conclusion the service the council provides has significantly worsened.

How complaints and enquiries were dealt with is explained below:

- **Upheld:** These are complaints where we have decided that an authority has been at fault in how it acted and that this fault may or may not have caused an injustice to the complainant, or where an authority has accepted that it needs to remedy the complaint before we make a finding on fault. If we have decided there was fault and it caused an injustice to the complainant, usually we will have recommended the authority take some action to address it.
- **Not upheld:** Where we have investigated a complaint and decided that a council has not acted with fault, we classify these complaints as not upheld.
- **Advice given:** These are cases where we give advice about why LGO would not look at a complaint because the body complained about was not within the LGO's scope or we had previously looked at the same complaint from the complainant, or another complaints handling organisation or advice agency was best placed to help them.
- **Closed after initial enquiries:** These complaints are where we have made an early decision that we could not or should not investigate the complaint, usually because the complaint is outside LGO's jurisdiction and we either cannot lawfully investigate it or we decide that it would not be appropriate in the circumstances of the case to do so. Our early assessment of a complaint may also show there was little injustice to a complainant that would need an LGO investigation of the matter, or that an investigation could not achieve anything, either

Local authority report - Barnsley MBC

for the period ending - 31/03/2011

For further information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Other	Planning & Development	Total
Formal/informal premature complaints	3	4	2	3	5	5	5	1	5	33
Advice given	1	1	0	3	2	0	5	1	2	15
Forwarded in investigative team (resubmitted)	0	1	0	1	2	0	2	1	6	13
Forwarded to investigative team (new)	1	3	1	2	6	3	10	1	13	40
Total	5	9	3	9	15	8	22	4	26	101

Investigative Team

Decisions	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
2010 / 2011	1	3	0	0	32	12	7	55

**Local authority report - Barnsley MBC
LGO advice team**

for the period - 01/04/2011 to 31/03/2012

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Planning & Development	Total
Advice given	2	0	1	1	2	1	4	4	15
Premature complaints	1	4	2	2	3	1	10	2	25
Forwarded to Investigative team (resubmitted)	1	1	0	0	0	0	1	4	7
Forwarded to Investigative team (new)	5	2	5	4	2	1	9	5	33
Total	9	7	8	7	7	3	24	16	80

Investigative team - Decisions

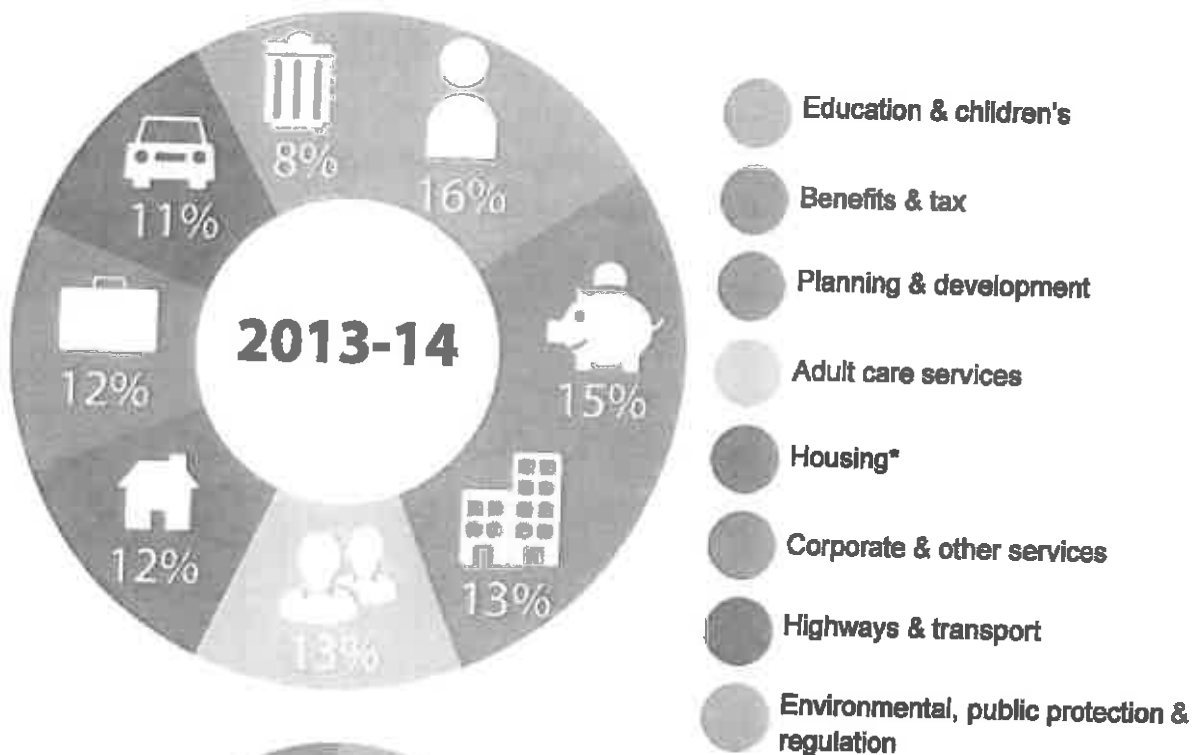
	Not Investigated		Investigated			Report	Total
	No power to Investigate	No reason to use exceptional power to Investigate	Investigation not Justified & Other	Not enough evidence of fault	No or minor injustice & Other		
2	3	14	24	7	5	0	85

Response times to first enquiries	No of first enquiries	Avg no of days to respond
	16	30.1



Accessible complaints handling service

The complaints that we received last year covered a wide range of areas. As in previous years education and children's services provided the largest number of complaints to LGO. The chart below shows the proportion of complaints we received in the different areas of our work. The smaller chart shows the breakdown for the previous year.



*In 2013-14 LGO's jurisdiction was changed which accounts for the reduction in the number of complaints about housing.