

AUDIT COMMITTEE

Local Government Ombudsman – Annual Letter 2006/07

23rd April 2008

Report of Head of Information & Customer Services

PURPOSE OF REPORT

This report provides a detailed summary of those complaints for which we received a decision from the Ombudsman in 2006/07, as requested by Members in minute no. 13 of the September 2007 meeting.

This report is public

1. RECOMMENDATION

(1) That the details below be noted.

2. REPORT

2.1 Introduction

At the meeting of 19th September 2007 members considered the Local Government Ombudsman's Annual letter for 2006/07. They requested that further details of the cases concerned be provided at a subsequent meeting. (ref: Minute 13 resolution3.) This information is provided below.

2.2 Breakdown of Complaints against Lancaster City Council

The **decisions** of the Ombudsman can be summarised as follows: -

- 11 No evidence of maladministration
- 4 Ombudsman's discretion
- 2 Local Settlement
- 6 Outside Local Government Ombudsman's jurisdiction.
- 8 Premature complaints

Summary:

Service	Case reference	Decision
Finance	10	Local settlement
Property	17	No insufficient evidence of maladministration (without report)
Council Housing	2	No insufficient evidence of maladministration (without report)
	6	No insufficient evidence of maladministration (without report)
	13	No insufficient evidence of maladministration (without report)
Health/Housing	1	Ombudsman's discretion
	15	No maladministration
	16	No insufficient evidence of maladministration (without report)
Neighbourhood Task Force	12	No insufficient evidence of maladministration (without report)
Planning	4	No insufficient evidence of maladministration (without report)
	11	No insufficient evidence of maladministration (without report)
	21	Ombudsman's discretion
	22	No insufficient evidence of maladministration (without report)
	23	Outside jurisdiction
Housing Benefit	5	Outside jurisdiction
	7	Ombudsman's discretion
	14	Outside jurisdiction
	25	No insufficient evidence of maladministration (without report)
Legal	9	Ombudsman's discretion
Council Tax	18	Outside jurisdiction
	19	Outside jurisdiction
	24	Local settlement

Detailed breakdown by case:

Finance Case 10

The complaint can be summarised as follows: that the Council had not reminded the complainants about an old outstanding charge (of £162.10, from 1989/90) in respect of private street works. The outstanding amount had come to light upon the sale of their property and had been accruing interest. The debt was settled by the complainant to achieve the sale of their property.

The Ombudsman agreed with the complainants, and suggested that the Council reimburse the complainants the interest accrued on the charge.

Lessons learnt: Issue more frequent reminders for any outstanding amounts registered as land charges.

Property Case 17

The complaint can be summarised as follows: that the Council had unreasonably removed the complainants ability to park close to their home.

The Ombudsman took the view that the complaint was not one that he could pursue.

Lessons learnt: not applicable

Council Housing Case 13

The complaint can be summarised as follows: that the Council had unreasonably failed to take appropriate and timely action in respect of complaints of neighbour nuisance.

The Ombudsman took the view that the complaint was not one that he could pursue.

Lessons learnt: not applicable

Case 6

The complaint can be summarised as follows: that the Council had unreasonably failed to give appropriate consideration to the complainants application for housing.

The Ombudsman took the view that the Council had properly considered and prioritised the application for housing.

Lessons learnt: not applicable

Case 13

The complaint can be summarised as follows: that the Council was at fault in:

- Failing to remove the bench from the garden area of the block of flats in which the complainant lives, in particular because the Housing Complaints Panel in January 2006 agreed that it would be removed if the complainant provided details of incidents of disturbance and nuisance arising from it; and
- Failing to respond to letters, e mails and telephone calls.

The Ombudsman took the view that there were no grounds to criticise the outcome of the Housing Complaints Panel. Also that there was no evidence that the Council had not replied to e mails and letters from the complainant.

Lessons learnt: not applicable.

Health/Housing Case 1

This complaint relates to Environmental Health and Planning Services.

The complaint can be summarised as follows: that the Council had unreasonably failed to investigate complaints about breaches of development control in the next door property; had failed to investigate complaints of noise nuisance from another property; and had failed to properly investigate the complaints of noise nuisance made by occupants of the next door property and so had unreasonably threatened enforcement action against the complainant.

The Ombudsman took the view that the complaint was not one which he should pursue for the following reasons.

1. Development Control – The Ombudsman was satisfied that the Council had properly investigated and responded to the complaint and there was no evidence of any administrative fault.
2. Noise from another property - The Ombudsman saw no evidence of administrative fault in the Council's approach. The Council's response to this complaint was in accordance with its published noise nuisance policy.
3. Allegations of noise from the complainants property - The Ombudsman noted that the Council could, perhaps, have made more effort to establish what nuisance existed and assessed it with a view to taking formal action if appropriate.

Lessons learnt: not applicable.

Case 15

The complaint can be summarised as follows: that the Council failed to take appropriate action to deal with noise nuisance from a neighbour.

The Ombudsman took the view that the Council had responded appropriately to complaints and sought to involve the complainant in its strategy. It had approached the issue in a pragmatic manner, and while it is acknowledged that events might have been better handled, this was very much a case of being wise after the event, rather than maladministration.

Lessons learnt: Ensure there is sufficient evidence before serving an abatement notice.

Case 16

The complaint can be summarised as follows: that the Council had unreasonably failed to properly investigate complaints of neighbour noise nuisance.

The Ombudsman took the view that the Council had properly investigated her complaints and had found no evidence to support further action.

Lessons learnt: not applicable.

Neighbourhood Task Force Case 12

The complaint can be summarised as follows: that the Council failed to give the complainants initial advice regarding the potential timescales for purchasing their properties

as part of the West End Regeneration Scheme and that, during the ensuing process, the Council failed to respond to correspondence and requests for information. They also complained that the Council failed to ensure that monies were available to complete the purchase and delayed in doing so.

The Ombudsman took the view that there was insufficient evidence that the Council had been at fault in the way it handled the acquisition of the properties. From the information available he could see no grounds to criticise the way in which the Council dealt with their complaint. The Council accepted that there were occasions when it should have replied to them earlier or supplied them more promptly with documents that they had requested. However the Ombudsman did not consider that the complainants were compromised to any significant extent as a result.

Lessons learnt: Improve communication.

Planning Case 4

The complaint can be summarised as follows: that the Council had unreasonably failed to take appropriate enforcement action in relation to a development and had perversely approved a retrospective application to retain the development as built.

The Ombudsman stated that he had no evidence of administrative fault in the way the Council had considered the matter.

Lessons learnt: not applicable.

Case 11

The complaint can be summarised as follows: that the Council had unreasonably investigated their neighbour's complaints about them.

The Ombudsman took the view that the Council was only doing what it should do and that he had seen no evidence of administrative fault.

Lessons learnt: not applicable.

Case 21

The complaint can be summarised as follows: that the Council unreasonably failed to follow proper procedures when considering lifting planning conditions relating to the flats where the complainant lives; and had unreasonably failed to properly consider the consequent housing issues.

The Ombudsman took the view that although the Council had failed to give the planning application appropriate publicity, on the evidence presented the complainant had not suffered an injustice as a result of the Council's actions.

Lessons learnt: ensure all planning applications are appropriately publicised.

Case 22

The complaint can be summarised as follows: that the Council had unreasonably failed to give appropriate consideration to applications for planning permission.

The Ombudsman took the view that from the evidence he had seen he was satisfied that the Council had properly considered the planning applications relating to the site. In particular before reaching their first decision the Planning Committee visited the site and so Members could have had no doubts about the position of the site and its relationship to surrounding properties, roads and footpaths. In addition officers, when reporting each new application, had reiterated the background as well as reporting material planning considerations, local policies, consultation responses and objections.

Lessons learnt: not applicable.

Case 23

The complaint can be summarised as follows: that the Council unreasonably failed to make timely responses to his letters, delayed determining his application for planning permission and failed to respond appropriately to his queries about Condition 10.

The Ombudsman took the view that since both delay in determining an application and a disputed condition provide a right to appeal to the Secretary of State for Communities and Local Government (through the Planning Inspectorate), the Ombudsman had no jurisdiction to investigate the complaint, and could not do so. The complainant had appealed against Condition 10.

The Council had approved his application 4 months after it was received, and had explained and apologised for delayed correspondence, particularly during the summer holidays.

Lessons learnt: Improve communication.

Housing Benefits Case 5

The complaint can be summarised as follows: that the Council had made an overpayment of both housing benefit and council tax benefit. Whilst the Council had admitted that the overpayment was partly their mistake she was still required to return the overpayment.

The Ombudsman took the view that he could not investigate this complaint since the complainant had a right to go to a statutory tribunal and it would be reasonable for her to do so.

Lessons learnt: not applicable.

Case 7

The complaint can be summarised as follows: that the Council unreasonably deducted Housing Benefit because the complainants son and daughter, who are non-dependents live with her.

The Ombudsman took the view that the Council had followed the regulations properly and that it would not appear that she had been caused injustice through maladministration by the Council.

Lessons learnt: not applicable.

Case 14

The complaint can be summarised as follows: that the Council unreasonably refused to pay one month's housing benefit because her claim was deemed to be defective and the Appeals Tribunal had also dismissed her claim.

The Ombudsman took the view that he could not investigate this complaint since a right to go to a statutory board had been used. The complainant had appealed to the Social Security Tribunal concerning the Council's decision.

Lessons learnt: not applicable.

Case 25

The complaint can be summarised as follows: that the Council was unreasonably recovering overpaid housing benefit from his tenant's ongoing benefit payments. (see Case 14 above)

The Ombudsman took the view that this was not a complaint that he could pursue and that the evidence he had seen had satisfied him that there had been no maladministration by the Council in relation to the matters the complainant had raised.

Lessons learnt: Ensure that any correspondence contains, where appropriate, a full explanation of how a decision has been reached, under which legislation, and clarification of any terms which may not be immediately obvious to the recipient.

Legal Case 9

The complaint can be summarised as follows: that the Council had unreasonably considered diverting footpath 16; and that Lancashire County Council had unreasonably failed to take appropriate action to ensure that the footpath was not obstructed.

The Ombudsman took the view that these were not complaints which he should pursue for the following reasons: 1) The complainant had advised that he was not directly affected by the matter he was complaining about. 2) The making of the diversion order had been referred to the Secretary of State therefore it was not a matter that the Ombudsman was able to consider.

Lessons learnt: not applicable.

Council tax Case 18

The complaint can be summarised as follows: that Council officers did not properly handle information connected with the complainants appeal to the benefits Appeal Service.

The Ombudsman took the view that the complaint was outside his jurisdiction, since the Local Government Act 1974 says that the Ombudsman shall not investigate a complaint if a right to go to a statutory tribunal has been used. The Appeals Service is such a tribunal.

Lessons learnt: not applicable.

Case 19

The complaint can be summarised as follows: that the Council was unreasonably taking recovery action against the complainant for unpaid council tax.

The Ombudsman took the view that the complaint was outside his jurisdiction, since the Local Government Act 1974 says that the Ombudsman shall not investigate a complaint where there is a right to go to a statutory tribunal unless he is satisfied that it is/was not reasonable to expect the complainant to use that right. The Valuation Tribunal is a statutory tribunal to which the complainant could have appealed.

Lessons learnt: not applicable

Case 24

The complaint can be summarised as follows: that the Council had unreasonably authorised recovery action against the complainant in respect of council tax owed by his late father.

The Ombudsman took the view that there was no need to pursue the complaint further since the Council had offered an appropriate remedy.

The Council invited the complainant to meet with officers so they could explain his liability and he could provide evidence to support his view that he was not liable.

Lessons learnt: An invitation to meet with officers could have been offered at an earlier stage. To be mindful that the Ombudsman welcomes attempts to settle complaints locally.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability etc)

No direct impact

FINANCIAL IMPLICATIONS

Any financial implications attached to individual cases have been outlined in the body of the report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

There are no direct legal implications as a result of this report.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Local Government Ombudsmen's Annual Letter and Report 2006/2007.

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