

Report to: **Overview & Scrutiny Panel**
Date: **1 November 2018**
Title: **Ombudsman Annual Review Letter 2018**
Portfolio Area: **Customer First**
Wards Affected: **All**
Relevant Scrutiny Committee: N/A

Urgent Decision: N Approval and clearance obtained: N/A

Date next steps can be taken: Executive meeting on 22 November 2018

Author: Sue Nightingale Role: Legal CoP Lead Specialist and Deputy Monitoring Officer

Contact: Email: sue.nightingale@swdevon.gov.uk

RECOMMENDATION

That the Panel:

- 1. review the Ombudsman Annual Letter for 2018 (attached at Appendix A) and consider what corporate lessons may be learnt and whether further service improvements are required; and**
- 2. make any necessary recommendations to the Executive.**

1. Executive summary

- 1.1. To consider the Local Government Ombudsman's Annual Review Letter 2018 regarding Ombudsman complaints received against the Council for the period 1 April 2017 to 31 March 2018 (attached as Appendix A to this report). This includes Annex 1 'Complaints and enquiries received' and Annex 2 'Decisions made'.
- 1.2. Members are requested to review the Annual Letter 2018 from the Ombudsman and consider what corporate lessons have been learnt (or can be learnt) from the outcome of the complaints and whether further service improvements can be made.

2. Background

- 2.1. The Local Government Ombudsman's corporate strategy is based on the twin pillars of remedying injustice and improving local public services, and as part of this role the Ombudsman investigates complaints made by members of the public about public authorities. This currently excludes parish and town councils.
- 2.2. The Ombudsman will investigate a complaint if it relates to maladministration or injustice by the Council. The Ombudsman is not able to investigate all of the complaints referred to him, as some will fall outside of his remit, and the Ombudsman can only consider complaints that have first been considered through the Council's own internal complaints procedure; this is because the Council must have had the opportunity to consider, and respond to, the complaint first.
- 2.3. A complainant cannot appeal against the Ombudsman's decision, but complaints may be reviewed if new information is presented to the Ombudsman.

3. The Annual Letter 2018, Complaints and Decisions

- 3.1. The Ombudsman's Annual Review Letter 2018 is attached at Appendix A and comprises a written report and two tables: Annex 1 shows the number and type of complaint received and Annex 2 shows the number, type and outcome of complaints that the LGO has decided between 1 April 2017 and 31 March 2018.
- 3.2. The Ombudsman's office changed its business processes during 2012 with the Annual Review Letter presenting only high level statistical information on the number of complaints received against the Council. However, the Ombudsman has recognised that presenting the total number of complaints may not, by itself, give a clear picture of how well these complaints have been responded to and in response to feedback from Local Authorities, the Ombudsman now includes data on the number of complaints upheld / not upheld, as well as highlighting the outcomes of those complaints rather than just the numbers received (see Annex 2). In making recommendations where the Ombudsman has found fault, the purpose is to remedy injustice caused to individuals and also to prevent future injustice to others by improving practice.
- 3.3. Previous Annual Letters included information on the Council's 'compliance rate' which indicated a council's compliance with the Ombudsman's recommendations to remedy a fault. However, the Ombudsman has established a new mechanism for ensuring that his recommendations are implemented and plans to report a more sophisticated suite of information about compliance and service improvement in the future.
- 3.4. A recent review of Local Government complaints for 2017/18 by the Ombudsman shows that, nationally, the Ombudsman is upholding more complaints. Significantly, the proportion of complaints it has upheld has increased to 57% - up from 54% the previous year. The Ombudsman has also issued 40% more public interest reports about local authorities in the same period).

- 3.5. The LGO's national report can be accessed at the following link:
<https://www.lgo.org.uk/information-centre/news/2018/jul/a-tool-for-change-ombudsman-issues-annual-review-of-council-complaints>
- 3.6. The also report includes national tables of Ombudsman complaints by category and by outcome (including the compliance rate with the Ombudsman's recommendations).
- 3.7. Additionally, this year the Ombudsman has issued new guidance for planners when recording the decisions they make. The Ombudsman receives more than 2,000 complaints and enquiries each year about English local authorities' planning functions.
- 3.8. In the Annual Letter, the Ombudsman provides a breakdown of the investigations that he has upheld in order to show the number of cases where the Ombudsman's recommendations have remedied the fault, and to also show where the Council had already offered a satisfactory remedy during the local complaints part of the process. In these latter cases, the Ombudsman provides reassurance that the Council had satisfactorily attempted to resolve the complaint through its internal complaints process.
- 3.9. Where the Ombudsman finds that the Council has acted with fault, and that fault has caused injustice to the complainant, he will make recommendations to the Council to put things right and this can include; asking the Council to make an apology (if it has not already done so), reinstating a service, making a decision on something under the right grounds, or providing information. If injustice cannot be remedied through remedial action, the Ombudsman may recommend a financial payment. Appendix 2 shows that one case cases involved a financial payment totalling £200.00
- 3.10. The following table shows the number of complaints received and decided by the Ombudsman for last four years: The disparity in numbers can be explained by the inclusion in the decided cases of those sent back by the Ombudsman or incomplete and because some received decisions are decide din the following year.

Year	Number of complaints received	Number of complaints decided
2017/18	16	20
2016/17	22	22
2015/16	15	21
2014/15	27	19

- 3.11. The Council is unlikely to be in a position where no complaints are referred to the Ombudsman, because some complainants will remain unsatisfied with the outcomes of the Council's investigations where there is no finding in their favour. This year the number of complaints received and decided has reduced and in only two cases fault was found. Of the three upheld cases reported in the Ombudsman Annex, note that one had already been resolved by the Council before the Ombudsman's decision.

- 3.12. A more detailed summary of the complaints and Ombudsman's decisions for 2017/18 is attached as Appendix B, and Members will note that the Ombudsman has upheld only two of those and only limited fault. The final column shows what actions or measures the Council has taken or put in place as a result of the complaint in order to improve services or processes.
- 3.13. Members will note that the complaints in the two Ombudsman tables (Annex 1 and Annex 2) do not strictly correspond with the complaints in the Council's records at Appendix B, and this is due to several factors; for example, the Ombudsman's figures include enquiries from people that they signpost back to the Council but who may not necessarily make a complaint, and not every decision will relate to a complaint made in that financial year (it may have been received in the previous financial year but a decision made this year; conversely a complaint may have been received before 31 March 2018 and the decision not made until the next financial year).

4. Proposed Way Forward

- 4.1. Members will note that the overall number of complaints received by the Ombudsman, and the number of upheld complaints has gone down. It is considered that this continues to build on the implementation of the new corporate complaints policy introduced in 2015 which sets out a clear and consistent two-stage process across the Councils for considering complaints.
- 4.2. A further factor in the reduction in the number of complaints referred to the Ombudsman can be attributed to the complaints-handling training undertaken by officers across the Authority which has resulted in a more proactive approach by officers, with the aim of remedying any faults found in line with the Ombudsman's guidelines. Further officers have attended Ombudsman training in July this year. The LGO has produced an online manual for officers to refer to when dealing with complaints and this has been circulated widely across the Council.
- 4.3. It is recommended that the Council continues to embed the corporate complaints policy across the Council and endeavour to resolve complaints at a local level, and implement the learning outcomes to enable even further improvements.

5. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Local Government Ombudsman is governed by the Local Government Act 1974 and is responsible for considering complaints against local authorities which the complainant considers have not been resolved locally.

		<p>The Overview & Scrutiny Panel is responsible for having an overview of complaints handling and for an overview of Ombudsman complaints, and the Ombudsman Annual Review Letter is an important part of that process.</p> <p>The decisions in respect of each case are provided to the relevant service in order that any recommendations made by the Ombudsman are acted upon and lessons learnt can be implemented.</p>
Financial		<p>Where is it necessary to settle a complaint by the payment of compensation (or the Council has already offered a settlement) payment is made out of the current year's revenue budget for the service in question.</p> <p>Financial redress was offered in three of the cases that were upheld which amounted to £810.00.</p> <p>There are resource implications in the officer time spent in dealing with the complaint in both the initial stages under the Council's internal complaints policy as well as the resources required in responding to the Ombudsman complaint, but it is not currently possible to quantify this time.</p>
Risk		<p>It is important that the Council is aware of the number and type of complaints made to the Ombudsman together with the outcomes and lessons learnt.</p> <p>Whilst it is not possible to eliminate complaints, it is possible to manage the complaints efficiently and learn from the outcomes of these complaints to mitigate the risk of recurrence and deliver service improvements.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		This has been considered in the Complaints policy and within the individual complaint's where relevant
Safeguarding		N/a
Community Safety, Crime and Disorder		N/a
Health, Safety and Wellbeing		N/a
Other implications		

Supporting Information

Appendices:

Appendix A: The Local Government Ombudsman's Annual Review Letter 2017 (including Annexes 1 and 2 table of cases)

Appendix B: Table of South Hams District Council's Ombudsman Complaints for 2016/17

Background Papers

None