

Report to: **Overview & Scrutiny (Internal) Committee**

Date: **8 November 2016**

Title: **Ombudsman Annual Review Letter 2016**

Portfolio Area: **Portfolio Area: Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance  
obtained:

Date next steps can be taken: **Hub Committee: 29  
November 2016**

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## **RECOMMENDATION**

- 1. To review the Ombudsman Annual Letter for 2016 (attached at Appendix A) and consider what corporate lessons may be learnt and whether further service improvements are required; and**
- 2. To make any necessary recommendations to the Hub Committee.**

### **1. Executive summary**

- 1.1. To consider the Local Government Ombudsman's Annual Review Letter 2016 regarding Ombudsman complaints received against the Council for the period 1 April 2015 to 31 March 2016 (attached as Appendix A to this report).
- 1.2. Members are requested to review the Annual Letter 2016 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. A consultation

was undertaken by the Government in March 2015 on proposals to extend the Local Government Ombudsman's services to larger parish and town councils, but the response and outcomes from the consultation have yet to be published.

- 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 her, as some will fall outside of her 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 2016, Complaints and Decisions

- 3.1. The Ombudsman's Annual Review Letter 2016 is attached at Appendix A and comprises a written report and a table of complaints and enquiries received between 1 April 2015 and 31 March 2016.
- 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, therefore, 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. In making recommendations where the Ombudsman has found fault, the purpose is to remedy injustice caused to individuals and also to prevent injustice to others by improving practice.
- 3.3. Members will note a box at the bottom of the Ombudsman's table (Appendix A) which highlights the number and percentage of complaints that were remedied satisfactorily following recommendations by the Ombudsman and those satisfactorily remedied by the Council before the Ombudsman's involvement (this figure is 100% for West Devon).
- 3.4. A recent review of Local Government complaints for 2015/16 by the Ombudsman shows that, nationally, the Ombudsman is upholding more complaints (a rise from 46% to 51% on approximately the same number of complaints as the previous year). A summary of the report and the report itself can be accessed at the following link: <http://www.lgo.org.uk/information-centre/news/2016/jul/ombudsman-upholding-more-complaints-about-local-government>. The report also includes national tables of Ombudsman complaints by category and by outcome (including the compliance rate with the Ombudsman's recommendations). Nationally the Ombudsman is most likely to find fault in complaints about benefits, tax and housing; at West Devon this was predominately planning related issues.

- 3.5. The Ombudsman provides a breakdown of the investigations that she has upheld to show the number of cases where the Ombudsman's recommendations remedied the fault, and also 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.
- 3.6. Where the Ombudsman finds that the Council has acted with fault, and that fault has caused injustice to the complainant she 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.
- 3.7. The West Devon Review Letter shows that in 2015/16 the Ombudsman received 8 complaints and enquiries compared to 12 for the year 2014/15 and 16 complaints for 2013/14. The Ombudsman made 7 decisions in 2015/16 compared to 13 in 2014/15 and 11 in the year 2013/14, The Council is unlikely to be in a position where no complaints are referred the Ombudsman because some complainants will remain unsatisfied with the outcomes of the Council's investigations where there is no finding in their favour. However, there is a significant reduction in the number of Ombudsman complaints over the past two years.
- 3.8. A more detailed summary of the complaints and Ombudsman's decisions for 2015/16 is attached as Appendix B, and Members will note that the Ombudsman has only upheld four of those complaints (three were a linked matter). 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.
- 3.9. Members will note that the figures in the Ombudsman table do not strictly correspond with the figures 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 2016 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 made and the number of upheld complaints have reduced significantly during 2015/16 and it is considered that this is a direct result 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 during the last financial year, 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.

- 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.

## 5. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>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> <p>The Overview &amp; 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. In 2015/16 this amounted to £32, 000 in relation to a long running complaint over several years which was brought to conclusion with the assistance of the Ombudsman. This matter has previously been the subject of scrutiny by this Committee.</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</p>

		of recurrence and deliver service improvements.
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 2016  
Appendix B: Table of West Devon Borough Council Complaints for 2015 – 2016

#### **Background Papers**

None