

Report to: **Overview & Scrutiny Committee**  
Date: **7 November 2017**  
Title: **Ombudsman Annual Review Letter 2017**  
Portfolio Area: **Support Services**  
Wards Affected: **All**  
Relevant Scrutiny Committee: N/A

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

Date next steps can be taken: **Hub Committee  
28.11.17**

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**Recommendations:**

1. To review the Ombudsman Annual Letter for 2017 (attached at Appendix A) and consider what corporate lessons may be learnt and whether further service improvements are required.
2. To make any recommendations to the Hub Committee.

**1. Executive summary**

- 1.1. To consider the Local Government Ombudsman's Annual Review Letter 2017 regarding Ombudsman complaints received against the Council for the period 1 April 2016 to 31 March 2017 (attached as Appendix A to this report). This includes Annex 1 'cases received' and Annex 2 'cases decided'.
- 1.2. Members are requested to review the Annual Letter 2017 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 2017, Complaints and Decisions**

- 3.1. The Ombudsman's Annual Review Letter 2017 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 2016 and 31 March 2017.
- 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 2016/17 by the Ombudsman shows that, nationally, the Ombudsman is upholding more complaints (a rise from 51% to 54% compared with the previous year). The LGO's national report can be accessed at the following link: <http://www.lgo.org.uk/information-centre/news/2017/aug/ombudsman-releases-complaints-statistics-for-all-local-authorities> . 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 adult social care (64% upheld) and least likely to find fault about planning cases (35%).

- 3.5. Additionally, this year the Ombudsman has included some general guidance on reporting of Ombudsman outcomes to Members. This Council has been reporting to Members for some years following the receipt of the Ombudsman's Annual Letter together with a more detailed table of complaints received and decided during the previous financial year.
- 3.6. 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.
- 3.7. 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 three cases involved financial payment totalling £200.00
- 3.8. The following table shows the number of complaints received and decided by the Ombudsman for last four years:

Year	Number of complaints received	Number of complaints decided
2016/17	5	7
2015/16	8	7
2014/15	12	13
2013/14	16	11

- 3.9. 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. There has been a decrease in the number of complaints received by the Ombudsman (three fewer than last year) the number of cases decided by the Ombudsman is the same as last year. The number of complaints where the Ombudsman has found fault has reduced to just one during the financial year and this was in relation to an enforcement case.
- 3.10. A more detailed summary of the complaints and Ombudsman's decisions for 2016/17 is attached as Appendix B, and Members will note that the Ombudsman has upheld only one of the 7 complaints that were decided. 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.

- 3.11. 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 2017 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 has reduced to five, and the number of upheld complaints are consistent with last year's figures. The figures show that the Council 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 Authorities 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	<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 Committee 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</p>

		by the Ombudsman are acted upon and lessons learnt can be implemented.
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 £200.00.</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 West Devon Borough Council's Ombudsman Complaints for 2016 – 2017**

#### **Background Papers**

None