

WYRE FOREST DISTRICT COUNCIL**ETHICS AND STANDARDS COMMITTEE****16TH SEPTEMBER, 2010****Complaints to the Local Government Ombudsman 2009/2010**

OPEN	
DIRECTOR:	Linda Collis, Director of Community and Partnership Services
CONTACT OFFICER:	Gilda Holmes, PA to Chief Executive
APPENDICES:	Appendix A - Definition of decision terms

1. PURPOSE OF THE REPORT

- 1.1 To report the outcome of complaints to the Local Government Ombudsman in accordance with Council Policy for the period of April 2009 to March 2010.

2. RECOMMENDATION

The Committee is asked to DECIDE that:

- 2.1 **This report be noted.**

3. BACKGROUND

- 3.1 The Council's Corporate Complaints Procedure provides for a three-stage approach to the handling of customer complaints. If resolution through this process is not possible, the complainant can contact the independent Local Government Ombudsman.
- 3.2 The Local Government Ombudsman's role is to consider whether 'injustice' has been caused by shortcomings in the administrative actions of the Council. He examines what the Council has done compared with its legal obligations, the requirements of its own policies and procedures and of good administrative practice.
- 3.3 Members of the public may contact the Ombudsman directly, however complainants who do so are always encouraged to resolve a grievance at a local level.

4. KEY ISSUES**Analysis of Complaints to the Ombudsman**

- 4.1 The table below summarises the results of the Ombudsman's investigations into complaints received in 2009/10 (2008/09 figures in brackets). Of the 11 complaints referred to the Ombudsman, only 1 resulted in a finding of maladministration in part only and this was resolved with a local settlement.
- 4.2 Explanations for the terms used to describe the different types of Ombudsman decision can be found in Appendix A.

		Ombudsman's Decision			
		No or Insufficient Evidence of Maladministration	Local Settlement	Ombudsman's Discretion	Outside Jurisdiction
4.3	Complainant 1		✓		
4.4	Complainant 2		✓		
4.5	Complainant 3				✓
4.6	Complainant 4	✓			
4.7	Complainant 5	✓			
4.8	Complainant 6	✓			
4.9	Complainant 7	✓			
4.10	Complainant 8	✓			
4.11	Complainant 9	✓			
4.12	Complainant 10	✓			
4.13	Complainant 11	✓			
TOTAL 11 (3)		8 (0)	2 (0)	0 (1)	1 (2)

Background to Complaints and Outcomes

4.3 Complainant 1

- 4.3.1 In June 2009 complainant 1 wrote to the Ombudsman regarding homelessness. The complaint noted that the Council's housing organisation, Wyre Forest Community Housing, had unreasonably decided that complainant 1 was intentionally homeless, refused to give further temporary accommodation and gave inadequate assistance to find private rented or alternative accommodation. This had resulted in complainant 1 being homeless and "sofa-surfing".
- 4.3.2 The Ombudsman reviewed the circumstances and explained to complainant 1 that they had an alternative right of appeal that it would have been reasonable to use and in these circumstances the Ombudsman would not review the Council's decision that complainant 1 was intentionally homeless further.
- 4.3.3 There was no evidence of maladministration by the Council and the Ombudsman's further view was that Wyre Forest Community Housing's agreement to assist with temporary accommodation to avoid complainant 1 being homeless while the issue of housing was considered with Worcestershire County Council, and to assist with the bidding process for housing allocation, was a reasonable way to resolve the complaint. Also complainant 1 was subsequently offered assistance with a housing application by Wyre Forest Community Housing, after they had been contacted by the Council.

Outcome

- 4.3.4 The Ombudsman investigated this case and on 5th August, 2009 recorded a decision of "local settlement."

4.4 Complainant 2

- 4.4.1 On 8th April 2009 complainant 2 wrote to the Ombudsman stating that the Council failed to inform him of a neighbour's amended plans or make them available on the internet prior to approving the application for an extension which affected complainant 2's amenity by creating an impractical impassable gap between the neighbour's extension and his own.

- 4.4.2 The Council also failed to take into account potential damage to complainant 2's foundations and flat roof that would be caused during construction and also, consider the loss of their property value.
- 4.4.3 The Ombudsman reviewed the circumstances and stated that in the case of item 4.4.1 there was maladministration arising because the Council did not publish the revised plans (received before the consultation expired) on the internet in accordance with its usual policy. The Ombudsman's further view was that the Council should apologise to complainant 2 for not ensuring the revised plans were put promptly on the internet, and pay compensation of £250 to complainant 2 for his uncertainty and time and trouble in pursuing the complaint.
- 4.4.4 The Council should also review its procedures to ensure that revised plans are put on the internet within a short period of receipt.
- 4.4.5 In the case of item 4.4.2 there is no maladministration in relation to the Council's consideration of the foundations. The Ombudsman did not consider that these complaints show administrative fault that should be investigated as in his view the Council could not have reasonably considered the effect on complainant 2's foundations, use of roof during construction, or the effect of development on the value of the property, as these are not planning considerations.

Outcome

- 4.4.6 The Ombudsman investigated this case and on the 19th August, 2009 recorded a decision of "local settlement".

4.5 Complainant 3

- 4.5.1 This complaint was in respect of a Council Tax Valuation Tribunal when complainant 3 expected the Council to reimburse his family expenses for attending the Tribunal to challenge the Council's decision on his Council Tax liability. Complainant 3's challenge was successful. However, the Ombudsman deemed that complainant 3 could not use their services as a route to re-claim any expenses incurred for attendance at the Tribunal.

Outcome

The Ombudsman investigated this case and on 13th August, 2009 recorded a decision of "outside jurisdiction".

4.6 Complaints 4 – 11

- 4.6.1 Complaints numbered 4 – 11 were categorised as follows:-

- 1 - Other
- 5 - Planning and Building Control
- 2 – Transport and Highways

- 4.6.2 These were all investigated by the Ombudsman and subsequently classified as "no maladministration".

5. FINANCIAL IMPLICATIONS

- 5.1 A local settlement of £250 was paid to complainant 2 on 28th August, 2009, as a result of the investigation by the Ombudsman, because there had been a delay in updating a notice on the Council's Website.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 None.

7. RISK MANAGEMENT

- 7.1 None.

8. CONSULTEES

- 8.1 Corporate Management Team.
- 8.2 Councillor Tracey Onslow – Cabinet Member for Community and Partnership Services.

9. BACKGROUND PAPERS

- 9.1 Case Files.
- 9.2 Correspondence from the Local Government Ombudsman.

Appendix A

Definition of Decision Terms

Maladministration with Injustice: These are cases where the Local Government Ombudsman has concluded the investigation and has issued a formal report finding maladministration causing injustice.

Maladministration: This is where the Local Government Ombudsman has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

Local Settlement: This term is used to describe the outcome of a complaint where during the course of the investigation, the Council takes, or agrees to take, some action which the Ombudsman considers is a satisfactory response to the complaint and the investigation does not need to be completed.

No or Insufficient Evidence of Maladministration: These are decisions discontinuing an investigation because the Local Government Ombudsman has found no administrative fault by the Council in its dealings with the complainant.

Ombudsman's Discretion: These are decisions discontinuing an investigation where the Local Government Ombudsman has exercised his general discretion not to pursue a complaint. This can be for various reasons, but the most common is that the Local Government Ombudsman has found no or insufficient injustice to warrant the matter being pursued further.

Outside Jurisdiction: These are complaints that are not pursued as they are not within the Ombudsman's remit to do so, for example because the complainant has a legal remedy or because the complaint has been directed to the Council incorrectly.