



MEETING: STANDARDS COMMITTEE  
DATE: Thursday 18th November, 2010  
TIME: 10.00 am  
VENUE: Town Hall, Southport

Member	Substitute
Councillor Blackburn Brady Fairclough Hill Howe Papworth	Councillor Tonkiss Moncur Maher D Rimmer Fenton Mclvor

Independent Members: Mr. N. Edwards (Chair), Mr Edward Davies (Vice-Chair) and Mr. J. Fraser

Parish Council Member Parish Councillor Mrs Beryl O'Brien and Parish Councillor David Warren

COMMITTEE OFFICER: Steve Pearce  
Head of Committee and Member Services  
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**If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.**

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# **A G E N D A**

1. **Apologies for Absence**

2. **Declarations of Interest**

Members and Officers are requested to give notice of any personal or prejudicial interest and the nature of that interest, relating to any item on the agenda in accordance with the relevant Code of Conduct.

3. **Minutes**

(Pages 5 - 6)

Minutes of the meeting held on 15 July 2010

4. **Local Government Ombudsman's Annual Letter and Report 2009/10**

(Pages 7 - 22)

Report of the Acting Head of Corporate Legal Services

5. **Abolition of Standards for England**

Presentation by the Acting Head of Corporate Legal Services

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THESE MINUTES ARE NOT SUBJECT TO CALL IN.

## STANDARDS COMMITTEE

### MEETING HELD AT THE TOWN HALL, SOUTHPORT ON 15 JULY 2010

PRESENT: Mr. N. Edwards (in the Chair)  
Mr. E. Davies (Vice-Chair)

Councillors Blackburn, Brady, Hill and Papworth and  
Mr. J. Fraser (Independent Member) and Mrs. B.  
O'Brien and Mr. D. Warren (Parish Council  
Members)

#### 1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Fairclough and Howe.

#### 2. DECLARATIONS OF INTEREST

No declarations of interest were received.

#### 3. MINUTES

RESOLVED:

That the minutes of the meeting held on 25 March 2010 be confirmed as a correct record.

#### 4. STANDARDS COMMITTEE ANNUAL REPORT 2009 -10

The Committee considered the report of the Interim Head of Corporate Legal Services which incorporated the draft version of the Annual Report on the work of the Committee for 2009/10.

RESOLVED: That

- (1) the Annual Report of the Standards Committee for 2009/10 be approved; and
- (2) the report be referred to the Council on 2 September 2010 for consideration.

#### 5. PROPOSED DECENTRALISATION AND LOCALISM BILL

The Committee considered the report of the Interim Head of Corporate Legal Services which indicated that the Government had announced that a Decentralisation and Localism Bill would be published in the Autumn and would include proposals for the abolition of the Standards Board regime.

# Agenda Item 3

STANDARDS COMMITTEE- THURSDAY 15TH JULY, 2010

RESOLVED:

That the report be noted.

## **6. CASE SUMMARIES - RECENT INVESTIGATIONS**

The Committee considered the report of the Legal Director which incorporated copies of two case summaries published by Standards for England following recent investigations by Ethical Standards Officers.

RESOLVED:

That the report on the case summaries be noted.

# Agenda Item 4

**REPORT TO:** Standards  
Cabinet

**DATE:** 18 November 2010  
25 November 2010

**SUBJECT:** Local Government Ombudsman's Annual Letter  
And Report 2009/10

**WARDS  
AFFECTED:** All

**REPORT OF:** Acting Head of Corporate Legal Services

**CONTACT  
OFFICER:** David McCullough  
Tele 0151 934 2032

**EXEMPT /  
CONFIDENTIAL:** NO

**PURPOSE / SUMMARY:**

To present the Local Government Ombudsman's Annual Letter and Report for 2009/10.

**REASON WHY DECISION REQUIRED:**

The Annual Letter and Report are presented for Member information, consideration and review.

**RECOMMENDATION(S):**

That Standard Committee notes the Annual Letter and Report and indicates any specific comments for consideration at the next Cabinet meeting on 25 November 2010.

That Cabinet considers whether it wishes to make any comments to the Ombudsman in response to the report.

**KEY DECISION:** No

**FORWARD PLAN:** No

**IMPLEMENTATION DATE:** Following the expiry of the "call-in" period for the Minutes of the Cabinet meeting

# Agenda Item 4

**ALTERNATIVE OPTIONS:**

None arising on this occasion

**IMPLICATIONS:**

**Budget / Policy Framework:** None arising on this occasion

**Financial:** None arising on this occasion

<b><u>CAPITAL EXPENDITURE</u></b>	<b>2009/ 2010 £</b>	<b>2010/ 2011 £</b>	<b>2011/ 2012 £</b>	<b>2012/ 2013 £</b>
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<b><u>REVENUE IMPLICATIONS</u></b>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

**Legal:** None arising on this occasion

**Risk Assessment:** None arising on this occasion

**Asset Management:** None arising on this occasion



**CONSULTATION UNDERTAKEN / VIEWS**

Mike Fogg, Director of Corporate Services  
 Andrea Grant, Assistant Director, Democratic Services  
 John Farrell, Interim Head of Corporate Finance and ICT

**CORPORATE OBJECTIVE MONITORING:**

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Creating Safe Communities		√	
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability		√	
6	Creating Inclusive Communities		√	
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People		√	

**LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT:**

# Agenda Item 4

## **BACKGROUND:**

### **The Annual Letter**

1. A copy of the Ombudsman's Annual Letter is appended to the report (**Appendix A**). In addition the Ombudsman attached two further Appendices to the Annual Letter which are attached as **Appendices 1 & 2**. The Letter details statistical information about the complaints that have been received during the last financial year by the Ombudsman's office about this Council.
2. The Annual Letter is now a standard issue from the Ombudsman's office and is a helpful opportunity to reflect on this important area of work, to see what the Council can learn.
3. Overall the Annual Letter denotes that the total number of complaints about the Council to the Ombudsman was 53 (compared to 52 in 2008/9). 13 complaints were presented to the Ombudsman prematurely. This is where the Council has not usually had the opportunity to deal with the complaint through its own complaints procedures.
4. A total of 20 cases were sent to the Ombudsman's investigative team during 2009/10. The complaints were spread fairly evenly across the various Council functions as clearly shown in Appendix 2 to the Letter.
5. Cases referred to the Ombudsman this year, may not be determined in one financial year. However in the year 2009/10 25 cases were concluded. Of the 25 cases, 10 were settled through Local Settlement. This is where the Council has offered to take action about a complaint which satisfies both the complainant and the Ombudsman's office. There were no findings of maladministration by the Ombudsman against the Council.
6. The Ombudsman requests a turnaround time of complaint handling of 28 days or less. This Council has achieved a pleasing turnaround of 23.1 days in average.

### **The Annual Report**

7. More recently the powers of the Ombudsman have been extended to the following two areas and as such may result in an increase in the number of complaints referred to the Ombudsman in the future:
  - a. The Apprenticeship, Skills, Children and Learning Act 2009 created a new role for the Ombudsman's office to deal with complaints from parents and pupils about state schools. This has commenced with a pilot programme in April 2010 in four local authority areas. It is

intended that by September 2011, all state maintained schools will be covered by the Ombudsman's jurisdiction.

- b. The Health Act 2009 extended the Ombudsman's powers to deal with complaints about privately arranged and funded adult social care. These new powers will take effect on 1 October 2010. It would seem from the Annual Report that the Ombudsman's office expects that many complaints will be from people who have arranged and funded their care and this could involve the actions of both the local authority and the care provider.
8. There are a couple of cases worthy of mention following a brief overview of the cases that have been considered nationally by the Ombudsman's office during 2009/10.
9. The first case involved a London Borough Council that failed to consult with a resident about a planning application. The planning application had been registered using the incorrect address. On realising the failure to consult with an individual resident, the Council reviewed the planning application. The Council did not suggest that the planning applicant make any amendments to their proposed scheme. This meant that the resident's property (living room) was overlooked by the installation of a riverside balcony which was proposed in the planning application.
10. The Council concluded that the balcony did not result in an unacceptable level of overlooking in "planning terms" and that a neighbour had no right to privacy. The Ombudsman did not accept that a neighbour has no right to privacy. The Ombudsman also noted other planning applications that had been refused in the immediate locality as they had contravened Council's policy, namely causing a loss of privacy to the neighbouring property. The Ombudsman therefore concluded the case by issuing a formal report finding of maladministration causing injustice against the Council.
11. In the above circumstances the Council was ordered to pay some costs to the complainant directly re failure to consider the amenity properly and for the complainant's time and trouble, amounting to £1300. However what is particularly worthy of note is that the Council was ordered to pay a sum equivalent to the loss of the value of the complainant's property. This was to be determined by comparing the value of the property now with that if planning consent had been granted for a balcony that did not allow overlooking into the complainant's property.
12. Another case cited in the Annual Report by the Ombudsman involved three public authorities, namely the Environment Agency, a County Council and a District Council. For a period of 5 years, tonnes of rubbish were illegally dumped, burned and processed on farmland a few meters away from the complainant's house. It was estimated that the quantity of rubbish was sufficient to fill three Olympic sized swimming pools. The area was a beauty

# Agenda Item 4

spot in the green belt noted for its biological and architectural heritage. The Ombudsman made a finding of maladministration with injustice against the three public bodies.

13. As a consequence the bodies were ordered to apologise to the complainant and to pay £95K to reflect years of extreme distress, aggravation and financial loss.
14. The above cases show that the Ombudsman's office is adopting new approaches with respect to their powers that can have potentially significant costs impacts in cases where the Council does have a finding of maladministration causing injustice.

**The Local Government Ombudsman's  
Annual Review  
Sefton Metropolitan Borough  
Council  
for the year ended  
31 March 2010**

The Local Government Ombudsmen (LGOs) provide a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, we aim to get it put right by recommending a suitable remedy. We also use the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

# Agenda Item 4

## Contents of Annual Review

<b>Section 1: Complaints about Sefton Metropolitan Borough Council 2009/10</b> .....	<b>3</b>
Introduction.....	3
Enquiries and complaints received .....	3
Complaint outcomes.....	3
Liaison with the Local Government Ombudsman.....	4
Training in complaint handling .....	4
Conclusions.....	4
<b>Section 2: LGO developments</b> .....	<b>5</b>
Introduction.....	5
New schools complaints service launched.....	5
Adult social care: new powers from October.....	5
Council first.....	5
Training in complaint handling .....	6
Statements of reasons.....	6
Delivering public value.....	6
<b>Appendix 2: Local authority report 2009/10</b>	

## Section 1: Complaints about Sefton Metropolitan Borough Council 2009/10

### Introduction

This annual review provides a summary of the complaints we have dealt with about Sefton Metropolitan Borough Council. I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

There are two appendices to the review: statistical data for 2009/10 and a note to help the interpretation of the statistics.

### Enquiries and complaints received

Our Advice Team deals with all initial contacts to the Ombudsmen and advise people who want to make a complaint. The Advice Team recorded 53 enquiries about your Council in 2009/10 and forwarded 28 complaints for my office to consider. The complaints we considered were spread between planning and building control (5), public finance (4), education (4), adult care services (3), housing (3), other (3), transport and highways (3), children and family services (2) and benefits (1).

### Complaint outcomes

My office made decisions on 25 complaints about the Council in 2009/10. In any one year, there can be a difference in the number of complaints received and the number of decisions made by my office. This is because some decisions will have been made on complaints received in the previous year and not all the complaints received in 2009/10 will have been decided by 31 March.

### Local settlements

We will often discontinue enquiries into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. 26.9% of all decisions on complaints in the Ombudsmen's jurisdiction were local settlements. Of the complaints we considered about your authority, ten led to a local settlement (45.5%). I highlight a selection below.

There was a complaint about adult care services and the provision of respite and community support hours over three years. The Council agreed to make a payment of £3,500 to reflect the loss of additional support and put in place more flexible arrangements for future provision.

A complaint about a school admission appeal hearing identified misleading information in the admissions booklet and a policy that was not fully compliant with the new code. The Council was willing to offer a fresh appeal at an early stage which proved unnecessary as the child was subsequently offered a place. The Council also amended its policy and booklet.

There were two settlements relating to school transport appeals for travel passes. In both cases, the Council reviewed the decision reached and granted passes. The Council also agreed to review the arrangements for handling future travel pass appeals.

# Agenda Item 4

A complaint about both housing benefit and council tax benefit reviews highlighted procedural faults and unreasonable recovery action. The Council agreed to pay £800 to remedy the errors, bailiff actions and time and trouble. The Council also met with two of my officers to discuss the issues raised which was very helpful.

A complaint about council tax and council tax benefit identified a number of procedural faults in both the way the claim had been dealt with and associated recovery action. The Council agreed to remove all recovery costs and review the account and pay £500. There was again a very helpful meeting with your Council to discuss the issues raised.

## **Liaison with the Local Government Ombudsman**

We made 11 first enquiries of your Council during the year and the average response time was 23.1 days comfortably within the target of 28 days.

## **Training in complaint handling**

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

## **Conclusions**

I hope this review provides a useful opportunity for you to reflect on how the Council deals with those complaints that residents make to my office. If there are any issues that you wish to discuss, I or one of my senior colleagues would be happy to meet with the Council.

**Mrs A Seex  
Local Government Ombudsman  
Beverley House  
17 Shipton Road  
YORK  
YO30 5FZ**

**June 2010**



## Section 2: LGO developments

### Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

### New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in Barking and Dagenham, Cambridgeshire, Medway and Sefton. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at [www.lgo.org.uk/schools/](http://www.lgo.org.uk/schools/)

### Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

### Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at [www.lgo.org.uk/guide-for-advisers/council-response](http://www.lgo.org.uk/guide-for-advisers/council-response)

# Agenda Item 4

## **Training in complaint handling**

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

## **Statements of reasons**

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

## **Delivering public value**

We hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your authority. We will keep you up to date through LGO Link as each development progresses, but if there is anything you wish to discuss in the meantime please let me know.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

**Mrs A Seex  
Local Government Ombudsman  
Beverley House  
17 Shipton Road  
YORK  
YO30 5FZ**

**June 2010**

## Appendix 1: Notes to assist interpretation of the statistics 2009/10

### Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

**Premature complaints:** The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

**Advice given:** These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

**Forwarded to the investigative team (resubmitted premature and new):** These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to the council.

### Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

**MI reps:** where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

**LS (local settlements):** decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the LGO as a satisfactory outcome for the complainant.

**M reps:** where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

**NM reps:** where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

**No mal:** decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

**Omb disc:** decisions by letter discontinuing an investigation in which we have exercised the LGO's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

**Outside jurisdiction:** these are cases which were outside the LGO's jurisdiction.

# Agenda Item 4

## **Table 3. Response times**

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

## **Table 4. Average local authority response times 2009/10**

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

**LGO Advice Team**

Enquiries and complaints received	Adult care services	Children and family services	Education	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	0	0	1	1	3	1	5	1	13
Advice given	0	0	0	2	2	0	2	3	3	12
Forwarded to investigative team (resubmitted premature)	0	1	0	0	0	1	4	1	1	8
Forwarded to investigative team (new)	3	1	4	3	1	3	1	2	2	20
<b>Total</b>	<b>4</b>	<b>2</b>	<b>4</b>	<b>6</b>	<b>4</b>	<b>7</b>	<b>8</b>	<b>11</b>	<b>7</b>	<b>53</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
	2009 / 2010	0	10	0	0	9	3	3

**Average local authority resp times 01/04/2009 to 31/03/2010**

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	11	23.1
2008 / 2009	21	21.7
2007 / 2008	20	24.6

Types of authority	<= 28 days		29 - 35 days		> = 36 days	
	%		%		%	
District Councils	61	22	17	6	17	6
Unitary Authorities	68	26	22	8	10	12
Metropolitan Authorities	70	32	36	20	20	20
County Councils	58	52	60			
London Boroughs	52					
National Parks Authorities	60					