

STANDARDS COMMITTEE AGENDA



11th October 2011

at 4.00 p.m.

**in Committee Room 'C'
Civic Centre, Hartlepool.**

MEMBERS: STANDARDS COMMITTEE:

Councillors Barclay, Fleet, Griffin, Morris, Preece, Shaw and Sutheran.

Co-opted Members: B Footitt, B Gray and T Jackson

Parish Councillors: A Bell, Hart Parish Council and 2 vacancies

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

3.1 To confirm the minutes of the meeting held on 9th August 2011

4. ITEM FOR DECISION / INFORMATION

- 4.1 Appointment of Independent Member to the Council's Standards Committee –
Chief Solicitor and Monitoring Officer
- 4.2 Complaints to the Local Government Ombudsman in 2010/11 – *Assistant
Chief Executive and Chief Solicitor*

5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

6. LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006

EXEMPT ITEMS

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006

7. ITEMS FOR DECISION

- 7.1 Local Assessment of Complaints – Case References SC015-2009 and SC04-2010 – *Chief Solicitor (Para)*

8. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

STANDARDS COMMITTEE

MINUTES AND DECISION RECORD

9th August 2011

The meeting commenced at 4.00 pm in the Civic Centre, Hartlepool

Present:

Mr Jackson (In the Chair)

Councillors Barclay, Fleet, Griffin, Preece and Sutheran

Co-opted Member: Professor Footitt

Parish Councillor Bell (Hart Parish Council)

In accordance with Rule 4.2 (ii) of the Constitution, Councillor Wells attended as a substitute for Councillor Morris.

Officers: Peter Devlin, Chief Solicitor
Amanda Whitaker, Democratic Services Team

Apologies for absence were submitted on behalf of Councillors Shaw and Morris

6. Apologies for Absence

Councillors Shaw and Morris and Mr Gray

7. Declarations of interest by members

None

8. Minutes

The minutes of the meeting held on 28th June 2011 were confirmed.

9. Business Paper (*Chief Solicitor*)

(i) THE LOCALISM BILL - STANDARDS COMMITTEE LETTER TO HOUSE OF LORDS

At its meeting of 28 June 2011, the Committee had been informed that the

Localism Bill was currently being examined by the House of Lords during its Committee Stage and amendments made as considered appropriate. A letter had been approved (appended to the report) which set out the Committee's concerns at the proposed changes to the Standards regime.

The Committee was advised that on 19 July 2011, a telephone message had been left for the Legal Services Manager, from Lord Jenkins of Roding, one of the Lords currently re-examining the Bill acknowledging receipt of the letter and advising that a meeting had taken place on 18 July to consider the issues and view the amendments to the Bill ready for its report stage in September. A contact telephone number and email address had been left to enable further information or contact if required.

RESOLVED – That the report be noted.

(ii) ANNUAL REPORT 2010/2011

Appended to the report was the third Annual Report of the Standards Committee of Hartlepool Borough Council. The report covers the period 1st January, 2010 – 30th June, 2011. This draft report upon which Members comments were required, was set very much against a background of some uncertainty, following the publication of the Localism Bill, which was presently before Parliament. Therefore, the appended draft report highlighted the provisions contained within the Localism Bill and the likely impact upon the operation of Standards Committee and the ethical framework operating within local authorities. The report extended beyond 2010 and covered those complaints received during 2011 up to 30th June, of this year.

It was noted that the report was provided against a changing legislative background. Whilst there was uncertainty surrounding the ethical governance arrangements of local authorities, the Committee was still required to fulfil the statutory obligations imposed upon local authorities by virtue of the existing statutory provisions.

Following presentation of the report, clarification was sought in relation to a number of issues arising from the report including dispensation applications, Contract Procedure Rules and Declarations of Interest. A discussion took place also in relation to Complaints in terms of referral of complaints to the Standards Board. It was suggested that it would be appropriate for the Committee to receive some training in relation to dealing with complaints. The Chief Solicitor was also reminded that it had been agreed that the Committee would meet with the Chief Executive and the Mayor.

RESOLVED –

- (i) That, subject to the Mr Gray's approval of the 'Forward by the Chairman of the Standards Committee', the appended Annual Report 2010/11 be noted and approved for publication on the Council's website.
- (ii) That prior to the next meeting of the Committee, the Chief Solicitor write to all Members of the Council (and to Chief

Officers for information) to highlight good ethical standards particularly in relation to the registration and declaration of interests.

(iii) STANDARDS FOR ENGLAND – CASE INFORMATION AND REPORTING

Appended to the report for the information of the Committee were two connected case reports under references SFE-000188 and 000189 relating to Councillors George Dunning and Sheelagh Clarke of Redcar and Cleveland Borough Council. It had been alleged that both Councillors had “lied” at a ward meeting about the decision making role of the respective Councillors in the closure of a local school. Members noted from the appended report that the Ethical Standards Officer had found that the Members concerned did not breach the Code of Conduct. These cases centred on paragraph 5 of the Code of Conduct wherein it had been alleged that the said Councillors had conducted themselves in a manner which could reasonably be regarded as bringing their office or the authority into disrepute. The cases concerned the possible amalgamation of two schools and who effectively was the decision maker, in that regard. The Ethical Standards Office had found that the representations made by both Councillors confirmed that they had not misrepresented the position within the confines of the public meetings that they had attended and from which these complaints arose. Therefore they had not contravened paragraph 5 of the Code of Conduct.

RESOLVED – That the report be noted.

10 Any Other Items which the Chairman Considers are Urgent

The Chairman ruled that the following items of business should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matters could be dealt with without delay.

(i) INDEPENDENT MEMBER – The Chief Solicitor reported that he had received an expression of interest in respect of the Independent Member vacancy on the Committee. An application form had been forwarded to the individual and the Chief Solicitor was hopeful that there could be an interview to be conducted at the next meeting of the Committee.

(ii) COMPLAINT – The Chief Solicitor advised Members that it would be necessary to convene a meeting of the Consideration Sub-Committee in the next few weeks. There would also be a requirement to consider other complaints which would be submitted to Members in due course.

The meeting concluded at 4.40 p.m.

CHAIR

STANDARDS COMMITTEE11th October, 2011**Report of:** Chief Solicitor & Monitoring Officer**Subject:** Application for Appointment

1. APPOINTMENT OF INDEPENDENT MEMBER TO THE COUNCIL'S STANDARDS COMMITTEE

The Relevant Authorities (Standards Committees) Regulations, 2001 and subsequently the Standards Committee (England) Regulations, 2008, provide that Standards Committees must ensure that at least 25 per cent of its membership are "independent members". As previously noted, the 2008 Regulations also provide the criteria for the appointment of independent members, as follows:

- approved by majority of the members of the authority;
- advertised in one or more newspapers circulating in the area of the authority, and in such other publications or websites as the authority considers appropriate;
- of a person who submitted an application to the authority;
- has within a period of five years immediately preceding the date of the appointment has not been a member or officer of the authority; or
- is a relative or close friend of a Member or Officer of the authority.

Following an earlier publicity exercise, an application has been received from the Reverend John Lund (attached as an 'exempt' item (para 3 applying) to this report) for appointment as an Independent and therefore a co-opted member of the Council's Standards Committee.

Members will recall that the Committee should have a composition of four Independent Members' and presently one vacancy exists. Subject to the Committee's recommendations to Council as to an appointment, if the Reverend Lund were considered to be suitable for the position of an Independent Member, the Committee may wish to invite the Reverend Lund to consider whether he wishes to be appointed to the Independent Remuneration Panel, which was a feature of the initial advertisement for appointment. Members are therefore asked to consider this candidate for

appointment, which would ordinarily entail a term of four years upon the Council's Standards Committee.

RECOMMENDATION

The Committee consider the appointment of the Reverend Lund as an Independent Member upon the Council's Standards Committee (and as a Member of the Independent Remuneration Panel).

STANDARDS COMMITTEE

11 October 2011



Report of: Assistant Chief Executive and Chief Solicitor

Subject: COMPLAINTS TO THE LOCAL GOVERNMENT
OMBUDSMAN IN 2010/11

1. PURPOSE OF REPORT

- 1.1 To report upon the content of the Local Government Ombudsman's Annual Review Letter detailing a summary of complaints made against the authority in 2010/11. This report was tabled before the Performance Portfolio Holder on the 14th September, 2011, for information purposes.

2. BACKGROUND

- 2.1 The Local Government Ombudsman provides an independent, impartial investigation of complaints against local authorities where complainants remain dissatisfied with their local Council's actions or failure to act.
- 2.2 The Local Government Ombudsman (LGO) reports complaints performance to local authorities annually. All councils receive an annual review letter, from the LGO which details:
- the complaints and enquiries received by the Ombudsman;
 - decisions made on complaints received; and
 - current developments in the Ombudsman's work.

The details of complaints handled in 2010/11 are provided in Appendix 1, as is the full text of the Ombudsman's Annual Review.

3. ANNUAL LETTER FROM THE LOCAL GOVERNMENT OMBUDSMAN – 2010/11

3.1 Enquiries and complaints received

In the year to 31 March 2011 the Ombudsman received a total of 27 enquiries and complaints, which is a rise of almost 60% on the previous year (17 enquiries and complaints). However, from October 2010 all complaints about injustice connected to adult social care services came under the Ombudsman's jurisdiction, meaning that the figure is not directly comparable with the previous year. If the 3 enquiries and complaints relating to adult

social care were removed from the calculations there was a 41% rise to 24 enquiries and complaints. Nationally there was an increase of 21% in the number of enquiries and complaints received by the LGO, and although this is lower than the rise in relation to Hartlepool the relatively small numbers involved mean that a small rise in actual numbers relate to a higher percentage rise.

3.2 Of the 27 enquiries and complaints received by the LGO: -

- In five cases advice was given to the complainant
- Four complaints were judged to be premature. These complaints were either sent on to the Council with a request that the matter be put through our own complaints procedure or, alternatively, the complainant was advised to make a formal complaint themselves to the Council.
- A further four complaints had been initially determined by the Ombudsman as premature but re-submitted by complainants dissatisfied with the way in which the Council had dealt with their complaint.
- The remaining 14 complaints were new complaints and forwarded to the Ombudsman's investigative team.

3.3 The actual number of complaints forwarded to the Ombudsman's investigative team therefore increased from 11 in 2009/10 (3 resubmitted and 8 new complaints) to 18 in 2010/11 – an increase of just under 64%. The national increase is 7.5% but once again the small numbers involved in Hartlepool mean a relatively small number will result in a large percentage increase. For comparison purposes, and looking at all 124 Single Tier Authorities (Unitary, Metropolitan or London Borough), Hartlepool had the 5th lowest number of complaints determined in 2010/11. This is an improvement on 2009/10 when Hartlepool had the 6th lowest number of complaints determined.

3.4 Complaints Outcomes

13 complaints were determined during the year, a figure which differs from the number of complaints received because of work in hand at the beginning and the end of the year. This figure includes 1 adult social care complaint. Of those complaints determined:

- four complaints saw the Local Government Ombudsman exercise the general discretion available not to pursue the matter;
- in another four cases no evidence of maladministration by the Council was sufficient to justify the Local Government Ombudsman's continued involvement;
- the adult social care investigation was discontinued as the injustice had been remedied*
- the Council agreed to settle the remaining four complaints accepting that something had gone wrong and that it was appropriate to provide a remedy of some description for the complainant.

*Adult Social Care decisions use the new decision reasons that will be used for all complaint decisions from 1 April 2011.

3.5 Local Settlements

The Local Government Ombudsman will often discontinue enquiries into a complaint when a council takes or agrees to take action that the Ombudsman consider to be a satisfactory response – these are called local settlements. The four complaints which the Council agreed to settle during the year amounts to 33.3% of the total number of complaints determined and which were within the LGO's jurisdiction, excluding the Adult Social Care complaint. When this complaint is included, and including "injustice remedied" as a local settlement, this figure rises to 5 complaints, or 38%.

- 3.6 The settlements differed depending on the individual circumstances of the complaints, but varied from a written apology to remedying the perceived injustice – for example offering to reseed affected lawns following reinstatement work that had been carried out received a number of complaints from residents.

3.7 Complaints handling

All authorities are asked to respond to Local Government Ombudsman enquiries within 28 calendar days. The Council took on average 27.3 days to respond to enquiries during the year, an increase from 21.2 days in the previous year.

3.8 Recommendations from the Ombudsman

The 2010/11 Annual Review by the Local Government Ombudsman is positive in tone and does not highlight any areas of concern or make any recommendations for action. No public reports against the Council were issued.

3.9 Local Government Ombudsman developments

The review letter outlines some current developments in the LGO's work. These include the change in way decisions are communicated to complainants and councils, designed to increase transparency and to ensure that decisions are clear and comprehensible.

- 3.10 Last year the Ombudsman reported that the launch of the new schools complaints service, introduced by the Apprenticeships, Skills, Children and Learning Act 2009, would be phased in. The Education Bill currently before Parliament proposes to rescind this new jurisdiction from July 2012 so it is unlikely that this will result in any changes within Hartlepool.

4. RECOMMENDATIONS

That the report be noted.

5. BACKGROUND PAPERS

Annual Letters from the Local Government Ombudsman for previous years.

6. CONTACT OFFICER

**Peter Turner, Performance and Consultation Manager,
Chief Executive's Department, Corporate Strategy Division
Hartlepool Borough Council
Tel No: (01429) 523648 Email: peter.turner@hartlepool.gov.uk**

Appendix 1

**The Local Government Ombudsman's Annual Review Letter
Hartlepool Borough Council for the year ended 31 March 2011**

Local Government
OMBUDSMAN

24 June 2011

Mr Paul Walker
Chief Executive
Hartlepool Borough Council
Civic Centre
HARTLEPOOL
TS24 8AY

Our Ref: Annual Review /AS/DH

(Please quote our reference when contacting us and, if using email, please put the reference number in the email subject header)

Dear Mr Walker

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ending 31 March 2011. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number that the Advice Team forwarded to my office and decisions made on complaints about your council. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your authority to respond to written enquiries and the average response times by type of authority.

Communicating decisions

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

Beverley House
17 Shipton Road
York
YO30 5FZ

T: 01904 380200
F: 01904 380269
W: www.lgo.org.uk

Advice Team: 0300 061 0614

Anne Seex
Local Government Ombudsman
Michael King
Deputy Ombudsman

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. My next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further transparency to our work.

Extended powers

During 2010/11 our powers were extended to deal with complaints in two significant areas.

In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. The increasing number of people who arrange and pay for their own social care now have the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 75 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

Our new powers coincided with the introduction of Treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

Assisting councils to improve

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. During 2010/11 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.

These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

Details of training opportunities are on our web site at www.lgo.org.uk/training-councils/

More details of our work over the year will be included in the 2010/11 Annual Report. This will be published on our website at the same time as the annual review letters for all councils (14 July).

If it would be helpful to your Council I should be pleased to arrange for me or a senior manager to meet and explain our work in greater detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Anne Seex'.

Anne Seex
Local Government Ombudsman

Local authority report - Hartlepool BC

for the period ending - 31/03/2011

For further information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Other	Planning & Development	Total
Formal/informal premature complaints	0	1	0	0	1	1	0	0	1	4
Advice given	2	1	1	1	0	0	0	0	0	5
Forwarded in investigative team (resubmitted)	0	0	0	0	3	0	0	0	1	4
Forwarded to investigative team (new)	1	1	4	2	0	1	4	0	1	14
Total	3	3	5	3	4	2	4	0	3	27

Investigative Team

Decisions	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
2010 / 2011	0	4	0	0	4	4	0	12

Adult social care decisions made from 1 Oct 2010*

	To discontinue investigation, injustice remedied	Total
2010 - 2011	1	1

*These decisions are not included in the main decisions table above. They use the new decision reasons from 1/10/10.

Response times

	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	6	27.3
2008 / 2009	5	21.2

Provisional comparative response times 01/04/2010 to 31/03/20 11

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	65	23	12
Unitary authorities	59	28	13
Metropolitan authorities	64	19	17
County councils	66	17	17
London boroughs	64	30	6
National parks authorities	75	25	0

Response times adult social care 1/10/10 - 31/3/11

	First enquiries	
	No of first Enquiries	Avg no of days to respond
2010/2011	1	11.0