

Background note on the remit, work processes and powers of the Local Government Ombudsman

1. Remit of the Local Government Ombudsmen

The Local Government Ombudsmen provide independent, impartial and prompt investigation and resolution of complaints against injustice caused by maladministration by district, borough, unitary, metropolitan or county councils (and other public authorities) and to promote fair and effective local government.

There are three Local Government Ombudsmen for England. Tony Redmond is the Ombudsman who deals with complaints about authorities in north London, Buckinghamshire, Berkshire, Hertfordshire, Essex, Kent, Surrey, East and West Sussex, Suffolk and Coventry City.

The Ombudsman may investigate complaints by members of the public who consider that they have been caused injustice by maladministration in connection with action taken by, or on behalf of, authorities within the Ombudsman's jurisdiction in the exercise of their administrative functions.

Normally complaints to the Local Government Ombudsman must be made within 12 months of when the problem first arose, although the Ombudsman does have discretion to conduct an investigation into a complaint that relates to a matter that is more than 12 months old if he or she considers it reasonable to do so.

The Ombudsman may not investigate a complaint where there is a right of appeal to a tribunal or a Minister or where the complainant has a remedy by way of proceedings in a court of law. However again the Ombudsman has discretion to investigate if he or she is satisfied that in the particular circumstances it is not reasonable to expect the aggrieved person to appeal or to go to court. An Ombudsman may also not investigate a complaint about any action which affects all or most of the inhabitants of the local authority's area.

Despite these restrictions, most of the administrative actions of local authorities are within the Ombudsmen's jurisdiction.

2. Approach taken by the Ombudsman in investigating complaints

The LGO Advice Team is now the single point of contact for all enquiries and complaints made by members of the public. Once a complaint has been forwarded to the Investigative Team, it is allocated to an Investigator who then decides what information is needed in order to reach a decision on whether the complainant has suffered a

personal injustice as a result of maladministration by the local authority concerned.

There is no statutory definition of maladministration and little judicial authority on the subject. However, the main test of whether there has been maladministration is whether an authority has acted reasonably, and in accordance with the law, in the implementation of its own the generally accepted standards in local administration. The Ombudsman is concerned with the way in which a decision has been reached and not with the merits of the decision.

Similarly there is no statutory definition of injustice, and it is left to the Ombudsman to say what this means in any particular case.

Sometimes a complainant will have provided sufficient information to allow the Investigator to conclude with reasonable confidence either that there has been no fault or that there has been no injustice or both. If this is the case the Investigator will write to the complainant to explain why he or she has reached that decision and the complaint is then discontinued.

However in many cases it will not be clear exactly what the complainant is objecting to or what injustice the complainant believes he or she has suffered. Therefore having obtained further clarification from the complainant, the Investigator will then write to the authority, defining the complaint and asking for comments. They will also usually specify what information they need eg copies of policies, minutes of meetings, correspondence with the complainant.

Having received a full response from the authority, the Investigator will usually send a copy of the response to the complainant with a request for comments. Once these comments have been received the Investigator considers whether further investigations are needed. The scope of an investigation will vary from case to case. Sometimes it will be possible to reach a view and determine the complaint following an exchange of correspondence with the authority and the complainant. However, sometimes an Investigator will decide that more detailed work is required, for example an inspection of the relevant files, interviewing officers and members or obtaining information from other sources.

3. **Outcome of complaints**

The Ombudsman classifies the outcome of complaints investigations as follows:

- Ombudsman's discretion not to pursue complaint
- No or insufficient evidence of maladministration
- Local settlement

- Maladministration, causing no injustice (accompanied by the issuing of a formal report)
- Maladministration causing injustice (accompanied by the issuing of a formal report)

In a large number of cases, Councils accept in the course of an investigation that they have done something wrong, they could have provided a better service and they would like to put the matter right. This suggestion may come from a Council itself, or may be proposed by the Ombudsman's office. If the Ombudsman is satisfied with the remedial action offered by a council, the complaint is considered to be 'locally settled' and the investigation is discontinued. Local settlements can range from the offer of an apology to a payment of compensation.

A local settlement does not always mean that there has been fault on the part of the Council. Occasionally a local settlement is reached in attempt to bring the matter to a satisfactory conclusion, thereby avoiding further lengthy and possibly costly exchanges with the complainant.