

	<p style="text-align: center;"><b>Audit Committee</b> 19 September 2007</p> <p style="text-align: center;"><b>Executive</b> 12 November 2007</p> <p style="text-align: center;"><b>Report from the Director of Policy and Regeneration and the Monitoring Officer</b></p>
For Information	Wards Affected: ALL
<p style="text-align: center;"><b>Report Title: Reports issued by the Local Government Ombudsman</b></p>	

Forward Plan Ref:

## 1.0 Summary

- 1.1 Each year the Local Government Ombudsman issues an Annual Letter in which he provides a summary of the complaints about the council that his office has dealt with and reflects generally on the council's complaints handling. One of the functions of the Audit Committee is to monitor the handling of any audit reports from the Local Government Ombudsman. The Annual Letter is shared with the Audit Commission and is taken into account in corporate governance assessments. The Annual Letter for 2006/2007 was issued in June 2007 and this report summarises the key points and outlines the improvement measures highlighted by the Letter.
- 1.2 In 2006/07, for the first time in six years, the Local Government Ombudsman issued two reports on individual complaints against the council. The Ombudsman found maladministration causing injustice in two complaints about the Revenues and Benefits Service's approach to debt recovery.
- 1.3 Where there has been a finding of maladministration with respect to a proposal, decision or omission the Monitoring Officer is required by the Local Government and Housing Act 1989 to report:
  - to the Council where the maladministration relates to a Council function; and
  - to the Executive where the maladministration relates to an executive function.

1.4 This report also summarises the background to the complaints and the actions taken in response to the Ombudsman's findings. This report has been submitted to the Executive as well as the Audit Committee because it relates to some Executive functions as well as non-executive functions.

## **2.0 Recommendations**

2.1 To note the Ombudsman's Annual report.

2.2 To note that this report from the Monitoring Officer is prepared pursuant to the Local Government and Housing Act 1989 following two findings of maladministration against the Council by the Ombudsman.

2.3 To note the steps already taken to rectify the shortcomings identified by the Ombudsman as set out in this report and in the earlier report to the Performance and Finance Select Committee dated 11 April 2007 attached to this report as Appendix 1.

2.4 To agree that no further action is required to be taken given the steps already taken to rectify the problems identified by the Ombudsman.

2.5 To agree that this report be circulated by the Monitoring Officer to all members of the Council in accordance with section 5A(8) of the Local Government and Housing Act 1989 and that this report shall then constitute the report from the Executive required by that section.

## **3.0 Detail**

### **The Local Government Ombudsman's Annual Letter for 2006/2007**

3.1 In his three previous Annual Letters the Local Government Ombudsman has been highly complimentary about Brent Council's complaint handling, which has improved radically since 2000. The Annual Letter for 2006/07 reflects a dip in performance which needs to be rectified quickly in order to maintain the Council's otherwise excellent record with the Ombudsman.

3.2 The key points emerging from the Annual Letter are as follows:

- The Ombudsman received 187 complaints against Brent in 2006/07. This is a slight decrease over 2005/06 (197) but seems to reflect the pattern of recent years when complaints have hovered between 170 – 200.
- The main areas of complaint, as in previous years, are housing, housing benefit, and council tax recovery
- For the first time in six years, the Ombudsman found it necessary to issue two reports finding maladministration causing injustice. These complaints were against the Revenues and Benefits Service and concerned council tax recovery action taken against two people without sufficient regard to

the Anti-poverty strategy. Given that this report concerns Council Tax, any member in arrears of Council Tax must have particular regard to the legal advice contained in paragraph 5.10 of the this report.

- 25 complaints resulted in a local settlement (these are complaints which the Ombudsman discontinued because the council has agreed action which the Ombudsman accepts as a satisfactory outcome for the complainant). These complaints made up over 25% of the Ombudsman's decisions, against a national average of 29%. This represents a considerable dip in performance over the previous two years when the figure was 13% and 8% respectively. Many of these local settlements resulted from complaints not being identified and resolved under the council's own procedure.
- 61 of the complaints received by the Ombudsman were returned to the council to deal with as 'premature' complaints as the Council had not had a reasonable opportunity to deal with them. This is about a third of the total complaints, against the national average of 28% and represents an improvement over 2005/06 when a worrying 44% of complaints were premature. The Ombudsman has commented in the past that a high percentage of premature complaints may indicate that a council's complaints procedure is not readily accessible or that the public may not have confidence in the authority to deal well with complaints.
- 19 of the complaints referred to us as premature were resubmitted to the Ombudsman by the complainants and four of them resulted in local settlements or report (21%). This is similar to the national average of 22% but is much higher than in previous years. Again, this is a worrying trend as it indicates that the council's internal procedures may not be remedying complaints satisfactorily
- The Ombudsman commented that most of the council's responses to his enquiries are thorough and helpful. But there has been a marked and sudden dip in performance in the average response times. Over the previous two years the average was a very creditable 22 and 21 days respectively against the Ombudsman's target of 28 days. In 2006/07 the average time leapt to 27 days. No service area achieved the previous years' performance. In particular the Ombudsman drew attention to the decline in response times by Brent Housing Partnership whose average response time was over 35 days.

3.3 The Council clearly needs to address this downward trend in Ombudsman complaint handling. The Council's corporate complaints manager has already met senior managers in service areas in order to put together appropriate recovery plans; complaints performance was reported to the July meeting of the Brent Senior Managers Group; training in complaint handling is now part of the corporate learning and development programme and a comprehensive training programme for all staff responsible for replying to complaints is being rolled out across the organisation; work is in hand to implement a corporate complaints database.

3.4 The full text of the Annual Letter is available on the Council's website <http://brent.gov.uk/complain>.

3.5 No action is required in relation to the Annual Letter.

### **The Local Government Ombudsman's reports on individual complaints**

3.6 In two separate reports issued on 27 February 2007 the Local Government Ombudsman criticised the Council's Revenues and Benefits Service for the way it had gone about recovering Council Tax debts from two customers. In each case the Ombudsman found that the complainant had suffered injustice as a result of maladministration by the Council.

### **The complaints**

3.7 In the first case, in 2002 the Council wrongly awarded a 50% empty property discount to 'Mr Holding' (not the complainant's real name for legal reasons). The error did not come to light until April 2004, at which point the Revenues Service issued Mr Holding with a large retrospective bill for Council Tax. Mr Holding was unable to meet the proposed arrangements for repayment and Council Tax recovery action was taken against him.

3.8 The Ombudsman found fault because the Council:

- Wrongly awarded the discount in the first place
- Failed to have regard to the anti-poverty strategy when seeking repayment of the whole debt within the 2004/05 financial year
- Failed to enquire into Mr Holding's means after he accepted responsibility for the debt but said that he could not afford the Council's proposed repayment plan
- Failed to progress his complaint through the procedure when his solicitor requested this.

3.9 Mr Holding's complaint had already been considered through all stages of the Council's complaints procedure before the Ombudsman considered it. At Stage 3 of the process a considerable part of the debt was waived because of the way the Revenues Service had gone about things and, following an interview with Mr Holding, his means were taken into account and agreement was reached to accept £20 a month which was all that Mr Holding could realistically afford. So, by the time the Ombudsman issued his report the Council had done everything practicable to sort out the problem for Mr Holding. The Ombudsman nevertheless felt that there was a public interest in issuing a report to highlight the need to have regard to have regard to vulnerable people who 'can't pay' whilst maintaining a necessarily robust approach to debt recovery. The Ombudsman asked to be kept informed of progress in the review of the anti-poverty strategy.

- 3.10 In the second case, 'Ms Benn' (again, not her real name) claimed housing and council tax benefits and had a number of changes in her circumstances. The Council delayed in assessing her underlying entitlement to benefit for the period 4 August 2003 and 1 February 2004. As a result, Ms Benn's account showed council tax arrears that she did not owe. The Council referred the matter to bailiffs and their approaches caused Ms Benn worry and distress. She asked for help from two advice agencies before the matter was resolved. In this case the Ombudsman stepped in before the Council's complaints process was complete.
- 3.11 The Ombudsman recommended the Council to pay £500 compensation to Ms Benn and let him know the outcome of its Anti-Poverty Strategy review.

### **Action following the issue of the reports**

- 3.12 The Chief Executive wrote to both complainants on 12 March to apologise for the fact that they had to pursue their grievance to the Ombudsman and to assure them that active steps are being taken to ensure that the Revenues Service is now much better at identifying people who may be vulnerable and unable to meet their financial commitment, and also better at identifying where a claimant might be entitled to underlying HB and CTB. The cheque for £500 compensation was sent to Ms Benn with the letter.
- 3.13 Events have moved on considerably since these two complainants made their complaints to the Ombudsman, a fact acknowledged by the Ombudsman. Both cases have led to a comprehensive review of policies and procedures, and lessons have been learned. The Revenues and Benefits Service are now better equipped to deal with residents who may have difficulty understanding literature or paying bills. Help and advice is available to residents who may be experiencing difficulty paying their Council Tax, whilst at the same time actively pursuing those who refuse or neglect to pay.
- 3.14 The anti-poverty strategy is in the process of being finalised. A revised draft was finalised in April 2007 and was followed by a period of extensive consultation with internal and external stakeholders. At the time of this report, the strategy was being finalised together with a detailed action plan to underpin it. It is envisaged that there will be an annual review to ensure that the strategy remains relevant and appropriate.
- 3.15 Accordingly officers do not consider that any further action is required to rectify the issues highlighted by the Ombudsman in the two reports.

## **4.0 Financial Implications**

- 4.1 There are no significant financial implications. Compensation paid in response to Ombudsman's complaints in 2006/07 was about £5,000,

significantly lower than in previous years (for example almost £35,000 in 2000/2001) and considerably less than many other councils.

## **5.0 Legal Implications**

- 5.1 The law requires the Council to advertise Ombudsman's reports in at least two local papers. The necessary advertisement appeared in the Wembley Observer on 8 March 2007, and the Wembley and Brent Times on 14 March 2007.
- 5.2 The Council must make the reports available for inspection at appropriate locations for a period of three weeks, and to provide copies on request. The reports were available in the One Stop Service local offices at the Town Hall and Brent House from 12 March 2007.
- 5.3 The Council is required to present the Ombudsman's reports to Council members. The Head of Revenues and Benefits made a report to the Performance and Finance Select Committee on 11 April 2007, providing the full text of both reports and information about service improvements to avoid further adverse findings by the Ombudsman. This report is available as a background paper.
- 5.4 The Council is required to notify the Ombudsman within three months of the date his report is received of the action the authority has taken or is proposing to take in respect of his findings. Accordingly, the Chief Executive wrote to the Ombudsman on 22 June (the slight delay was due to the need to await the minutes of the Performance and Finance Select Committee) confirming that Members had noted and accepted the Ombudsman's findings and the officers' proposals to improve the Revenues and Benefits service's response to people who genuinely cannot meet their Council tax liability while maintaining a robust approach to collection generally.
- 5.5 On 7 August 2007 the Local Government Ombudsman notified the Council that he was satisfied with the action the Council had taken in response to his reports. He has therefore closed his files.
- 5.6 Sections 5 and 5A of the Local Government and Housing Act 1989 require the Monitoring Officer to report any maladministration relating to a Council function (section 5) and any maladministration relating to an Executive function (section 5A) to the Council and/or Executive respectively.
- 5.7 The Council and the Executive are required to consider this report within 21 days of the report being submitted to them.
- 5.8 The findings of maladministration by the Local Government Ombudsman relate to failures to properly take into account the anti-poverty strategy, to correctly calculate an individual's council tax benefit or council tax and in one case related to the complaints procedure.

- 5.9 The findings of maladministration therefore relate to both Executive and non-executive functions and it is prudent to report the findings to both the Executive and the Council (through the Audit Committee) to ensure that the obligations of the Local Government Act 1972 are satisfied.
- 5.10 Where a member of the Council who is liable for council tax is more than two months in arrears with their council tax payments, section 106 of the Local Government Finance Act 1992 prevents them from voting on any decision relating to the administration or enforcement of council tax. A member must declare the fact of the arrears at the meeting if they attend it and although they may take part in the discussion they cannot vote.
- 5.11 This report requires a decision that relates to the administration and enforcement of council tax and members are therefore reminded of the requirements of section 106.

### **Further steps**

- 5.12 Sections 5 and 5A of the Local Government and Housing Act requires the Monitoring Officer to circulate a copy of this report to every member of the Council following consideration of this report by the relevant body.
- 5.13 Section 5A also requires the Executive to prepare a report to be circulated to all members of the Council in response specifying:
- What action (if any) the Executive has taken in response to this report
  - What action (if any) the Executive proposes to take in response to this report and when it proposes to take that action
  - The reasons for taking that action or taking no action.
- 5.14 Given the recommendations in this report that no further action be taken members are asked to agree that this report be considered as the Executive's response to the Monitoring Officer's report as required by section 5A(8) of the Local Government and Housing Act 1989 and circulated to all members of the Council.

## **6.0 Diversity Implications**

- 6.1 Officers believe that there are no diversity implications.

## **7.0 Background Papers**

Local Government Ombudsman's Annual Letter for 2006/2007

Local Government Ombudsman's reports on investigations into complaints by Mr Holding and Miss Benn

Report to Performance and Finance Select Committee 11 April 2007

## **8.0 Contact Officers**

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