

AGENDA ITEM 4

CORPORATE AFFAIRS COMMITTEE

3 SEPTEMBER 2009

REPORT OF THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

LOCAL GOVERNMENT OMBUDSMAN: STANDARD STATEMENTS OF REASONS.

PURPOSE OF THE REPORT

1. To agree a response to the Local Government Ombudsman in respect of the attached consultation document regarding 'Statements of Reasons'.

BACKGROUND

2. The Local Government Ombudsman (LGO) will investigate complaints against the Council where a complainant has been through the Council's Corporate Complaints procedure but remains dissatisfied with the outcome of their complaint.
3. At present, the LGO only issues a full, public report where there is a finding of maladministration against the Council. Middlesbrough has only had one such finding since 2001.
4. In all other cases, for example where no maladministration is found, or where the Council agrees a 'local settlement' (see below), the only way that the complainant and the Council are notified is by way of a letter.
5. A 'local settlement' is where the Council agrees a course of action with the Ombudsman. This might be an apology to the complainant, or might include actions to remedy the complaint, including financial recompense. Local settlements are only made when, in effect, the Council agrees that it has acted in a way that might have resulted in maladministration.
6. As Members will see from the consultation document attached at Appendix 1, the intention is that in future a publicly available 'Statement of Reasons' will be published by the LGO in respect of all complaints investigated, including those mentioned in paragraph 4 and 5 above.

7. It is the view of Officers that this is a welcomed development. The LGO intends to publish the 'Statements of Reasons' on their website. This will build up a reference work of decisions that will be generally available to the Council and to the public. Whilst not constituting precedent in a legal sense, it will be helpful to the Council to be able to refer to similar cases from other authorities.
8. The publication of 'Statements of Reasons' might also be helpful in terms of advising complainants. As Members will note from the example 'Statement of Reasons' contained in the consultation document, if a decision of the Council is properly made, it does not constitute maladministration, even though the complainant is not happy with the decision of the Council. This is one of the major misunderstandings of the public regarding the role of the LGO. At present, the letters we receive concerning individual complaints are confidential and cannot be released to other complainants. It will be useful in future to be able to provide complainants with examples of decisions published by the LGO, along with the reasons for the decisions.

RECOMMENDATION

9. It is recommended that the Council responds positively to the consultation document, and that the Council welcomes the proposal to publish 'Statement of Reasons' in respect of future investigations.

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