



Ryedale District Council

REPORT TO: Standards Committee

DATE: 19 June 2008

REPORTING OFFICER: Council Solicitor & Monitoring Officer
Anthony Winship

SUBJECT: **Changes to the Local Government
Ombudsman's Jurisdiction and Operation**

1.0 PURPOSE OF REPORT

To appraise Members of changes to the Local Government Ombudsman's Jurisdiction and Operation.

2.0 INTRODUCTION

1. As Members are aware, one of this Committee's functions is the considering and making recommendations to Council in respect of any report of the Local Government Ombudsman in cases of maladministration relating to the conduct of members.
2. The Local Government and Public Involvement in Health Act 2007 has introduced some changes to the Local Government Ombudsman's (LGO's) jurisdiction and operation. The changes apply to complaints received and matters coming to the attention of an Ombudsman on or after 1 April 2008. The changes are summarised as follows:

Changes

3. Making Complaints
Complaints can now be made other than in writing and the LGO will accept complaints submitted by telephone, email or text. The LGO's new Advice Team will be the first point of contact for all new complaints and will confirm the subject matter of complaints before referring any 'premature' complaints to Councils and others to the investigation team.

4. Apparent Maladministration - Third party injustice
The Act enables the Ombudsman to investigate a matter where, during the course of an investigation, a third party member of the public appears to have suffered injustice. Investigators will involve the Ombudsman, personally, in deciding whether to act in such a case and then consider whether the local authority shall be asked to deal with the matter through its normal procedures. This is an area that the Ombudsmen will review in the light of experience.
5. Persons affected
The current provision relating to “persons aggrieved” changes to “persons affected”. This new definition refers to the members of public who claim to have sustained injustice and any third party member of the public who the Ombudsman considers has, or may have, suffered injustice.
6. Maladministration without Injustice
The Ombudsman already draws a Council’s attention to fault which has been identified during the course of an investigation. The new power enables the Ombudsman, in a ‘no injustice’ report, to recommend action. Such action would be to prevent injustice being caused in the future in consequence of similar maladministration.
7. Reports, statements of reasons and publicity
The Act allows the Ombudsman to prepare a statement of reasons instead of a report where s / he decides a report is not appropriate and is satisfied with the action taken or proposed by the authority. The LGO can also publish all or part of a report or statement or a summary of a matter which is the subject of a report or statement. These provisions create greater transparency and extend the understanding that the public, Council officers and Councillors have of the LGO’s work. Before implementing these new publicity powers the LGO will consult with local government representatives and other stakeholders.
8. Partnership working
Where a local authority carries out a function entirely or partly by means of an arrangement with another person the action taken by the other person shall be treated as action taken on behalf of the authority and in the exercise of the local authority’s function. The Ombudsman’s Special Report on partnerships and governance which was published in July last year is of relevance here. This highlights the need for Councils to review complaint handling arrangements within partnerships.
9. Procurement
The Act deletes the existing provision that precludes an investigation about a transaction for the procurement of goods and services necessary to carry out a Public General Act function.

10. Maladministration and service failures
The Ombudsman will be able to investigate complaints relating to failure in a service which was the local authority's function to provide and, also, failure to provide such a service.

11. Standards Board / Standards Committee
A separate part of the Act relating to Standards Committees is due to come into effect in the next few months. These changes create the potential for complaints to be made to the LGO about the process, administration and decision making of the Standards Committee. The LGO's approach to such complaints will be developed in dialogue with the Standards Board and Monitoring Officers.

12. The Local Government Ombudsman will keep under review how the new provisions work out in practice and will be subject to discussion with representatives of local government and other stakeholders. Feedback from Councils throughout the year to the LGO has been encouraged.

Conclusion

13. Members are asked to note the changes made to the Local Government Ombudsman's jurisdiction and operation and in particular the new provision for complaints to be made to the LGO about the process, administration and decision making of the Standards Committee.

Risk Assessment Statement

There are no risks associated with this report, which is for noting only.

Background Papers:

OFFICER CONTACT:

Please contact Anthony Winship, Council Solicitor, if you require any further information on the contents of this Report. The Officer can be contacted at Ryedale House, Telephone 01653 600666 ext.267 or e-mail: anthony.winship@ryedale.gov.uk