

WYRE FOREST DISTRICT COUNCIL**ETHICS AND STANDARDS COMMITTEE****27TH JANUARY 2010****Complaints to the Local Government Ombudsman 2008/2009**

OPEN	
RESPONSIBLE OFFICER:	Director of Community and Partnership Services
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APPENDICES:	Appendix A - Definition of decision terms

1. PURPOSE OF THE REPORT

- 1.1 To report the outcome of complaints to the Local Government Ombudsman in accordance with Council Policy for the period of April 2008 to March 2009.

2. RECOMMENDATION

The Committee is asked to DECIDE that:

- 2.1 **This report be noted.**

3. BACKGROUND

- 3.1 The Council's Corporate Complaints Procedure provides for a three-stage approach to the handling of customer complaints. If resolution through this process is not possible, the complainant can contact the independent Local Government Ombudsman.
- 3.2 The Local Government Ombudsman's role is to consider whether 'injustice' has been caused by shortcomings in the administrative actions of the Council. He examines what the Council has done compared with its legal obligations, the requirements of its own policies and procedures and of good administrative practice.
- 3.3 Members of the public may contact the Ombudsman directly, however complainants who do so are always encouraged to resolve a grievance at a local level.

4. KEY ISSUES**Analysis of Complaints to the Ombudsman**

- 4.1 The table below summarises the results of the Ombudsman's investigations into complaints received in 2008/09 (2007/08 figures in brackets). There were no complaints resulting in a finding of maladministration or injustice.
- 4.2 This is the fourth consecutive year that the Ombudsman has not issued any reports against the Council. It is also the lowest number of complaints considered by the Ombudsman in 9 years.

- 4.3 Explanations for the terms used to describe the different types of Ombudsman decision can be found in Appendix A.

	Ombudsman's Decision			
	No or Insufficient Evidence of Maladministration	Local Settlement	Ombudsman's Discretion	Outside Jurisdiction
4.4 Complainant 1			✓	
4.5 Complainant 2				✓
4.6 Complainant 3				✓
TOTAL 3 (7)	0 (3)	0 (0)	1 (2)	2 (2)

Background to Complaints and Outcomes

4.4 Complainant 1

Background

- 4.4.1 In March 2008 Complainant 1 wrote to the Ombudsman regarding the holding of the Country and Western Festival on the Stourport Riverside Meadows. The complaint noted that:
- the Council had organised and licensed the event near to the house of the complainant that resulted in unacceptable noise levels for local residents; and
 - the Council had failed to respond to the original complaint within a reasonable time.
- 4.4.2 The Ombudsman reviewed the circumstances and explained to the complainant that:
- no injustice had been suffered as a result of the holding of the Country and Western Festival as the complainant had not been at home during the event;
 - 2 letters written to the Council regarding the event had been responded to and all the points raised regarding the holding of the event and the noise levels had been addressed; and
 - whilst further correspondence had not been sent within an appropriate time, the Council explained the reasons for the delay which were considered reasonable by the Ombudsman.

Outcome

- 4.4.3 The Ombudsman investigated this case and on 23rd April 2008 recorded a decision of “Ombudsman’s discretion”.

4.5 Complainant 2.

Background

- 4.5.1 In January 2008 Complainant 2 wrote to the Ombudsman stating that works undertaken as part of the remodelling of land (following tipping operation) to create a 9 hole golf course had resulted in damage to the complainant’s property and flooding in the garden.
- 4.5.2 The land in question is located off the Kingsway in Stourport-on-Severn, between Burlish Top Nature Reserve to the east and residential properties on Torridon Close and Elan Avenue to the west.

- 4.5.3 It was alleged that during the tipping operation more waste than was permitted was deposited on the site and more types of waste than those permitted had also been deposited.
- 4.5.4 It was noted that a pond feature had been created, however the complainant identified that the planning consent required it to be lined and have an overflow constructed. It was claimed that neither were in place.
- 4.5.5 The Council explained that it did not have the expertise to determine the nature of the tipped material and had requested the assistance of the Environment Agency (EA) to investigate such claims. The Council confirmed that following the intervention of the EA, some material had been removed from site.
- 4.5.6 The Council further noted that the amount of material tipped and the requirements for the pond construction had been revised from the original planning application.
- 4.5.7 The cause of the flooding to the complainant's property was considered by consultants engaged by each party, however no consensus could be reached. The Ombudsman concluded therefore that he could not resolve the conflicting views and that legal action by the complainant was the only option available.

Outcome

- 4.5.8 The Ombudsman investigated this case and on 11th November 2008 recorded a decision of "Outside Jurisdiction".

4.6 Complainant 3.

Background

- 4.6.1 In February 2008 Complainant 3 wrote to the Ombudsman stating that works undertaken as part of the remodelling of land (following tipping operation) to create a 9 hole golf course had rendered the complainant's property unsaleable and had caused a reduction in quality of life.
- 4.6.2 The land in question is located off the Kingsway in Stourport-on-Severn, between Burlish Top Nature Reserve to the east and residential properties on Torridon Close and Elan Avenue to the west.
- 4.6.3 The complainant claimed that the developer had ignored the majority of planning conditions and that the Council had been informed of such breaches and had failed to act. As a result it was claimed that that land adjacent to the complainant's property had been excessively tipped with sub soils and other wastes forming an 'unconsented landform'.
- 4.6.4 The Ombudsman advised the complainant that there had been no tipping on the land near to the house since December 2006. For the Ombudsman to consider a complaint, it has to be made within twelve months of the complainant being aware of the activity taking place. As this had not been done until February 2008, the Ombudsman decided that he could not investigate.

Outcome

- 4.6.5 The Ombudsman investigated this case and on the 20th August 2007 recorded a decision of "Outside Jurisdiction".

5. **FINANCIAL IMPLICATIONS**

- 5.1 None.

6. **LEGAL AND POLICY IMPLICATIONS**

- 6.1 None.

7. **RISK MANAGEMENT**

- 7.1 None.

8. **CONSULTEES**

- 8.1 Corporate Management Team.

- 8.2 Councillor Marcus Hart – Cabinet Member for Community and Partnership Services.

9. **BACKGROUND PAPERS**

- 9.1 All background papers for Ombudsman investigations are available for inspection in the Community and Partnership Services Division, Green Street, Kidderminster, DY10 1HA.

Appendix A**Definition of Decision Terms**

Maladministration with Injustice: These are cases where the Local Government Ombudsman has concluded the investigation and has issued a formal report finding maladministration causing injustice.

Local Settlement: This term is used to describe the outcome of a complaint where during the course of the investigation, the Council takes, or agrees to take, some action which the Ombudsman considers is a satisfactory response to the complaint and the investigation does not need to be completed.

No or Insufficient Evidence of Maladministration: These are decisions discontinuing an investigation because the Local Government Ombudsman has found no administrative fault by the Council in its dealings with the complainant.

Ombudsman's Discretion: These are decisions discontinuing an investigation where the Local Government Ombudsman has exercised his general discretion not to pursue a complaint. This can be for various reasons, but the most common is that the Local Government Ombudsman has found no or insufficient injustice to warrant the matter being pursued further.

Outside Jurisdiction: These are complaints that are not pursued as they are not within the Ombudsman's remit to do so, for example because the complainant has a legal remedy or because the complaint has been directed to the Council incorrectly.