

# METROPOLITAN BOROUGH OF WIRRAL

STANDARDS COMMITTEE - 8 NOVEMBER 2004

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## ANNUAL REPORT 2003/04 OF THE LOCAL GOVERNMENT OMBUDSMAN

### REPORT OF THE ACTING MONITORING OFFICER AND PROPER OFFICER

#### 1. Summary

This report sets out the Annual Report of the Local Government Ombudsman and advises on ways which the Council will seek to improve its performance in relation to issues contained within the report.

#### 2. Background

2.1 The Ombudsman's letter is attached, together with an interim response from the Chief Executive. The letter is self-explanatory.

2.2 The Ombudsman points out that the total number of complaints received in respect of Wirral has remained steady over the past three years. Housing Benefit and Council Tax complaints have decreased since 2001/02, and no critical reports were made against the Authority over the course of the year. The Ombudsman did not see it as in the public interest to issue reports on other complaints.

2.3 Of particular concern is the time taken to respond to complaints. The average response time to letters of enquiry was 34 days. Although this was a slight improvement from 42 days in the previous year, it is by no means acceptable bearing in mind the standard that the Ombudsman introduced for 2004/05 is 21 days from despatch of complaint letters. This amounts to a change to the past practice of asking for a response within 15 working days. The Ombudsman has indicated that she will be monitoring response times closely as she feels that it adds to the complainant's sense of injustice if he or she is kept waiting. The Chief Executive has made it clear to all Chief Officers the view that the 21 day target should be adopted.

#### 3. Training

Members will note that the Ombudsman has pointed out that she is developing and trialling standard courses which can be delivered to authorities across the country. I have made contact with the Training Officer at the Commission for Local Administration in England and have registered an interest in training being delivered in Wirral. Obviously, officers dealing with Ombudsman complaints in all department will be urged to attend.

#### 4. Liaison/Link Officer Seminar

Members will see that the Ombudsman is proposing a seminar with the Authority's link officers. I have already contacted the Ombudsman's office and asked to attend the seminar. The seminar will take place in York later in November.

5. Finance and Staffing Implications

There are no financial or staffing implications arising out of this report.

6. Other Implications

There are no implications arising directly out of this report in terms of equal opportunities, ethnic minorities, elderly or disabled persons, nor are there any direct community safety, human rights, Local Agenda 21, planning or other implications.

7. Background Papers

The only background papers used in the preparation of this report are the letter, dated 22 June 2004, from the Local Government Ombudsman, and the interim response of the Chief Executive, dated 29 June 2004, both of which are appended to this report.

8. Local Member Support Implications

This report has no implications for specific wards.

9. Recommendation

Members are requested to note the report and make any representations concerning the Local Government Ombudsman's annual letter.

MARK REANEY

Acting Monitoring Officer  
and Proper Officer

MER/LW. REP\OMBUDAL2003-04  
25 October 2004

# CHIEF EXECUTIVE

23 JUN 2004

22 June 2004



The Commission for  
Local Administration in England

Mr S Maddox  
Chief Executive  
Wirral Metropolitan Borough Council  
DX 708630  
SEACOMBE

Patricia Thomas  
Local Government Ombudsman

Hilary Bainbridge  
Deputy Ombudsman

Our Ref: PAT3/jpd  
(Please quote our reference when contacting us)

**If telephoning contact: Mr Cobley's Personal Assistant on 01904 380201**  
**If e-mailing: [st3york@lgo.org.uk](mailto:st3york@lgo.org.uk)**

Dear Mr Maddox

## Annual Letter 2003/4

In January, I wrote to tell you about the results of a pilot exercise that I and my colleague Ombudsmen carried out last year. We had sent a letter to a representative sample of local authorities, including your own, spelling out the details of complaints we had determined during the year and drawing any lessons we thought appropriate about councils' performance, their complaints-handling arrangements generally, and how lessons might be fed back into service improvement. We also explained our intention to send a similar annual letter to all councils this year.

So I am writing now to give you my reflections on the complaints received against your authority and dealt with by my office over the last year. I hope that this letter will:

- help your Council learn from the outcome of complaints made to me
- underpin effective working relations between your Council and my office
- identify opportunities for me and my staff to provide assistance that a council may wish to seek in bringing about improvements to its internal complaint handling
- provide complaint-based information which you may find useful in assessing and reviewing your performance.

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Beverley House 17 Shipton Road York YO30 5FZ  
Tel 01904 380200 Fax 01904 380269  
email [enquiries.york@lgo.org.uk](mailto:enquiries.york@lgo.org.uk)  
DX 65201 York 5  
[www.lgo.org.uk](http://www.lgo.org.uk)

This is the first year that an annual letter has been sent to all councils and I would very much welcome any comments you may have to help improve the presentation and content of future letters.

In addition to this narrative there are two attachments which form an integral part of the letter: statistical data covering a three year period and a note to help the interpretation of the data.

### **Complaints Received**

It is always difficult to know whether variation from year to year in the volume of complaints received is a reflection of the Council's administrative performance. The total number of complaints received here from Wirral has remained steady over the past three years.

Housing Benefit and Council Tax complaints have decreased since 2001/02, made up for by an increase in complaints about other housing matters. Numbers are very small in comparison with the large number of cases handled and decisions made by the Council in these fields each year.

We issued no critical reports against Wirral this year. Nor did we see it as in the public interest to issue reports on other complaints. We did seek or monitor local settlements of 11 complaints, 17% of the 64 which were not premature. The proportion of non-premature complaints discontinued because we found insufficient evidence of maladministration was 39%, in line with the England average.

### **Outcomes of investigations**

*Social Services:* We had two occasions to comment on the Council's handling of complaints through its own procedure.

One was about the estate of a man who had died whilst in residential accommodation. Part of the complaint which came to me was of delay in handling the complaint. We recognised that some of the time taken was because the Council had referred the case to us for an opinion about the amount of recompense due. (I declined to comment until it became a formal complaint to me.) Apart from delay, the complainant was quite satisfied with the conduct of the procedure and praised the officer he dealt with for keeping him in the picture. Officers had genuinely tried to provide a remedy, offering £1000 but this was beyond the Director's delegated authority. Members rejected the recommended £1000. Given that the complainant was not a vulnerable service user, the injustice did not, in my opinion, warrant more than £500.

The other case was about delay, amounting to 11-12 months, in dealing with two complaints. The Council's procedure (revised – September 2003) was incompatible

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with Children Act regulations and appeared to give licence to officers to ignore the time requirements. I wrote to the Council expressing concern and asking it to review its policy. The Council replied in January saying that it had rewritten its corporate complaints policy and revised the Children Act procedure. I am pleased to note a satisfactory outcome of this complaint, which also included an apology and small payment to the complainant.

*Special educational needs:* We dealt with two cases this year which raised concerns about delays - one in obtaining a report required for re-assessment; the other was in providing the special education.

*Planning:* There was one complaint of interest, which the Council agreed to settle. The Council had made errors in the reading of plans for a proposed structure in a neighbour's garden, which led to the structure being taller than it should have been. The Council obtained a legal agreement to prevent additional windows being added at first floor level. The Council also made a payment to the complainant based on an assessment by the District Valuer. The investigator commented that the Council was quick to identify error but slow to take remedial action.

#### **Liaison between the Ombudsman's office and the Council**

Average response time to our letters of enquiry was 34 days. This is significantly more than the standard we are introducing for 2004/05, of 21 days from despatch of our letters (a change to our past practice of asking for a response within 15 working days). We shall be monitoring response times closely, as we feel it adds to the complainant's sense of injustice if he or she is kept waiting. Conversely, a timely response reflects well on the Council's efficiency and the seriousness with which it takes complaints. In this context I am pleased to note a nearly 20% reduction in response times. Let us hope this rate of improvement continues!

There was one housing benefit case, brought by a landlord, which could have been settled more quickly if the department had responded promptly to questions about the extent of the landlord's right of appeal.

In one complaint about school admission appeals, the Council's response included confidential information about other appellants. The Council had properly placed these under notice not to be divulged - but those papers were mixed in with all the others, and duplicated so that it would have been easy by clerical error to have sent them to the complainant.

In one of the SEN cases discussed above, the Council agreed with the investigator an amount to pay as remedy, but sent a cheque to the complainants before he could write to them. This caused some confusion for them. We would recommend, except as agreed with the investigator in urgent cases, that cheques which form all or part of the

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settlement of a complaint which we are dealing with be sent out when the investigator has confirmed to the Council that he or she has closed the case. And then, of course, sent promptly!

Apart from these instances, I am not aware of cause for concern about working relationships with Wirral.

### **Conclusions/General observations**

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find this information and assessment useful when seeking improvements to your Council's services. So, as I said at the beginning of this letter, I would very much welcome any comments you may have on this letter. In particular, it would be useful to know whether the letter meets the objectives set out in the bullet points in the second paragraph.

### **Training**

There are also two specific matters on which I would welcome your views. As part of the development of our statutory remit to promote good administrative practice, over time we propose to increase significantly the amount of training we currently offer to councils in complaint handling. We have carried out exploratory research, including talking to a number of councils in depth and surveying the views of others. The responses we have received show that councils would value training from us, and we want to be responsive to such demands and ensure that we make a positive contribution to improvements in local government.

During this financial year we are, therefore, developing and trialling standard courses which can be delivered either to a single local authority or to staff from a group of authorities at a regional centre. We shall evaluate these courses, in conjunction with the councils concerned, together with tailored courses that we currently provide to a limited number of councils, and from there decide on future provision. Our aim, depending on availability of resources and demand from local authorities, is then gradually to increase the amount of training we offer in 2005/6 and 2006/7.

To sustain an effective training function that does not jeopardise our core business of investigating complaints it will be necessary for us to charge for training. The charge will, however, be significantly less than the overall costs of the activity and will relate only to the direct expenditure arising from the provision of the training.

### **Liaison/Link Officer Seminar**

I should also be grateful to know whether your link or liaison officer with this office would welcome an opportunity to attend a seminar here in York, with other liaison

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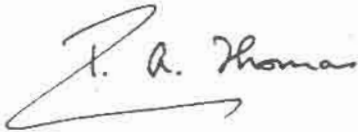
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Mr S Maddox

officers, on the work of this office and the ways in which we hope liaison officers such as your own will assist us. This seminar, which will be free of charge, is likely to be held in November this year depending upon the response. If the response is high, then it is possible that a second one day seminar will be held early in 2005.

I look forward to hearing from you. It would be helpful to receive any comments you may have either on the form and content of this annual letter, the training initiative and/or the link officer seminar by 31 August 2004. Meanwhile Chris Cobley will be pleased to respond to any queries on 01904 380201.

If you would like a plain paper copy of this letter and the attachments in electronic form, please email [st3york@lgo.org.uk](mailto:st3york@lgo.org.uk).

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. A. Thomas'. The signature is stylized with a large, sweeping initial 'P' and a long horizontal flourish at the end.

Mrs P A Thomas

Enc: statistical data covering a three year period and  
a note to help the interpretation of data

# LOCAL AUTHORITY REPORT - Wirral MBC

For the period ending 31/03/2004

Complaints received by category	Education	Highways	Housing (not incl. HB)	Housing Benefit	Local Taxation	Other	Planning	Social Services	Total
01/04/2003 - 31/03/2004	15	9	21	5	1	5	15	12	83
2002 / 2003	18	2	19	7	6	13	16	7	88
2001 / 2002	12	2	13	14	7	6	19	10	83

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	M reps	NM reps	No Mal	Omb Disc	OJ	Prem	Tot ex prem	Total
01/04/2003 - 31/03/2004	0	11	0	0	25	16	12	21	64	85
2002 / 2003	0	11	0	0	27	10	12	20	80	80
2001 / 2002	1	16	0	0	22	18	7	26	64	90

See attached notes for an explanation of the headings in this table.

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2003 - 31/03/2004	23	34.3
2002 / 2003	38	42.1
2001 / 2002	24	35.6



## Notes to help interpret the Commission's local authority statistics

### 1. Complaints received

This information shows the number of complaints received by service area and in total within the periods given. These figures will include complaints that were made prematurely to the Ombudsman (see below for more explanation) and which we referred back to the council for consideration.

### 2. Decisions

This information records the number of decisions made by the Ombudsman, by outcome, within the periods mentioned. This number will not be the same as the number of complaints received, because some complaints are made in one year and determined in the next. Below we set out a key explaining the outcome categories.

*MI reps:* These are cases where we have concluded an investigation and issued a formal report finding maladministration causing injustice. (The figures for the years 2001/2 and 2002/3 may include reports which had a finding of local settlement. For legal reasons, reports are no longer issued with this finding.)

*LS:* These are decisions by letter discontinuing an investigation because an acceptable local settlement has been obtained. They relate to cases where there has been administrative fault and a remedy is recommended by the Ombudsman and agreed by a council during the course of an investigation; or cases where the council itself offers a satisfactory remedy before an investigation has been completed.

*M reps:* These are cases where we have concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

*NM reps:* These are cases where we have concluded an investigation and issued a formal report finding no maladministration by the authority.

*No mal:* These are decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

*Omb disc:* These are decisions by letter discontinuing an investigation where we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant the matter being pursued further.

*OJ:* These are complaints which were not pursued because they were outside the Ombudsman's jurisdiction

Stephen Maddox  
Chief Executive

Town Hall  
Brighton Street  
Wallasey  
Wirral  
Merseyside CH44 8ED  
Fax: 0151-691 8583  
Email: [stephenmaddox@wirral.gov.uk](mailto:stephenmaddox@wirral.gov.uk)

to Mrs P A Thomas date 29 June 2004  
Local Government Ombudsman  
The Commission for Local Administration in  
England  
Beverley House  
17 Shipton Road  
YORK YO30 5FZ  
my ref SM0103.DOC/GC/40.3.3. Local Gov Omb  
your ref  
tel 0151-691 8589 please ask for Steve Maddox

Dear Mrs Thomas

ANNUAL LETTER 2003/04

Many thanks for your Annual Letter dated 22 June 2004 – the content of which I found both helpful and informative.

I am seeking the views and comments from colleagues on what you have said and I will pass on to you any views that they relate to me.

Clearly of concern to me is our delay in responding to you and I will certainly encourage my officers to maintain the improvement which we have seen over the past year. Nevertheless, I agree entirely with you that an average response time of 34 days is not acceptable.

I very much welcome your initiative in relation to training and I am very confident that Wirral will wish to participate in this. Please let me know how you intend to take this forward.

Our new liaison/link officer is Mr Mark Reaney whose current title is *Acting Monitoring Officer and Proper Officer*. Mark's contact details are as follows

Solicitor and Secretary's Department  
Metropolitan Borough of Wirral  
Town Hall  
Brighton Street  
Wallasey Wirral CH44 8ED  
Telephone 0151-691 8498  
Fax 0151-691 8583  
email [markreaney@wirral.gov.uk](mailto:markreaney@wirral.gov.uk)

I am sure he will be very interested indeed in attending the seminar you are planning in York.

With my very best wishes

Yours sincerely

Chief Executive

cc All Chief Officers