



Standards Committee

Date: Tuesday, 30 September 2008

Time: 6.00 pm

Venue: Committee Room 1 - Wallasey Town Hall

Contact Officer: Mike Archbold

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AGENDA

1. DECLARATIONS OF INTEREST

Members are asked to consider whether they have personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they are.

2. MINUTES (Pages 1 - 6)

To receive the minutes of the meeting held on 30 June 2008, which were submitted to the Council on 14 July.

3. LOCAL GOVERNMENT OMBUDSMAN'S ANNUAL LETTER AND COMPLAINT MONITORING REPORT (Pages 7 - 20)

4. SETTLEMENT OF COMPLAINTS - AMENDMENT TO THE SCHEME OF DELEGATION (Pages 21 - 24)

5. INDEPENDENT MEMBER - APPOINTMENT ARRANGEMENTS

The term of office for Mr Ken Jones will expire on 31 October 2008. The position has been advertised, with a closing date for applications of 3 October. The Committee is asked to agree arrangements for interviewing applicants.

6. EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC

The public may be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information.

7. COMPLAINT OF MALADMINISTRATION

Report to follow.

8. STANDARDS BOARD DECISION NOTICE (Pages 25 - 28)

Letter from the Standards Board for England

9. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR

Standards Committee

30 June 2008

Councillors

W J Davies
Ann McLachlan
S L Rowlands

Karen Hayes
Sarah Quinn
Mrs P M Williams

Independent members

Brian Cummings
Ken Jones

Ken Harrison MBE

1 **APPOINTMENT OF CHAIR (AND VICE-CHAIR)**

The Acting Monitoring Officer and Proper Officer requested nominations for the position of Chair and, if considered appropriate, Vice-Chair.

Resolved –

(1) (8:0) That Mr Brian Cummings be appointed Chair for the current municipal year.

(2) That Mr Ken Harrison be appointed Vice-Chair.

Following his appointment, Mr Cummings took the Chair.

2 **DECLARATIONS OF INTEREST**

The members of the Committee were asked to consider whether they had a personal or prejudicial interest in connection with any of the items on the agenda and, if so, to declare it and state the nature of such interest. The following declaration was made:

Councillor Rowlands - a personal interest in minute 6 (Ombudsman's report) by virtue of his having been acquainted with the case at an earlier stage.

3 **MINUTES and MATTERS ARISING**

The Committee was advised that the minutes of the previous meeting, held on 31 March 2008, had been accepted by the Council on 21 April 2008.

Resolved - That the minutes be received.

4 **UNREASONABLY PERSISTENT COMPLAINANTS AND UNREASONABLE COMPLAINANT BEHAVIOUR**

The Acting Monitoring Officer and Proper Officer sought endorsement of minor amendments to the Council's policies on unreasonably persistent complainants and unreasonable complainant behaviour, approved by the Council on 21 May 2007.

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The amendments were felt to be necessary in order to make the Council's position clearer.

Resolved - That the proposed amendments to the policies on unreasonably persistent complainants and unreasonable complainant behaviour, as set out in Appendices 3 and 4, be endorsed as far as this Committee is concerned and forwarded to the Cabinet and the Council for formal approval.

5 ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

Further to minute 40 (31/3/08), the Acting Monitoring Officer and Proper Officer reported that five places at the Annual Assembly had been booked for the Council's representatives.

Resolved - That members confirm as soon as possible whether or not they will be available to attend.

6 OMBUDSMAN REPORT - REPORT NO 07/C/03447

The Committee considered a detailed report by the Director of Children's Services in relation to the Local Government Ombudsman's report, issued on 10 April 2008, regarding Mr H and his child S. In his report, also circulated, the Ombudsman had made a finding of maladministration and injustice against the Council. On behalf of the Director, Peter Edmondson, Head of Branch (Participation and Inclusion), explained the background to the complaint, the Ombudsman's findings and recommendations, and the local authority's views and concerns about the Ombudsman's conclusions, which had led to its obtaining advice as to the feasibility of a legal challenge.

The Ombudsman had made five recommendations, that the Council should:

- (i) accept that it had no justification for its claim not to be responsible for S;
- (ii) discuss and agree with the school and S's parents whether there was any additional provision that could be made to help S "catch up" on the year's schooling that he had missed;
- (iii) reserve a sum of money equivalent to the cost of educating S at the school in question for a year in a fund until he has completed year 11 and then deploy the fund on any additional educational provision that the school and an educational psychologist might recommend as being beneficial;
- (iv) pay £1,000 to Mr H in recognition of the anxiety, stress, time and trouble caused to him; and
- (v) make a payment of £655 to Mr H to reimburse what he paid for private tutoring for S during 2007.

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The Director's response to the draft report had pointed out that the Council had accepted responsibility for S's education from what it considered to be the appropriate date; action under (ii) had already been taken; in respect of (iii) the authority did not see the rationale for that recommendation in view of the provision that would be made for S; that much, if not all, of the "stress, anxiety and time and trouble" could have been avoided if Mr H been open in his dealings with the Council; and recommendation (v) had not been included in the draft report, which meant that the Council had not had an opportunity to comment on it prior to the report being published, nor had it received any details of the form the tutoring took, who provided it or any evidence that the cost quoted was actually incurred.

Various members of the Committee expressed their support for the approach the Director had taken, both in dealing with the case and in his response, and their own concern at the manner in which the Ombudsman had reached her conclusions and the fact that a one-sided view of the case had been reported in the national press. They felt that the Director had been almost entirely vindicated by the opinion of Counsel, as reported to the meeting. The Acting Monitoring Officer and Proper Officer reported on how practicable it would be to mount a legal challenge, in terms of the possible financial outcome and the amount of officer time required (in addition to the considerable time already spent in dealing with the case).

Resolved - That

(1) the Committee notes the findings from the Ombudsman's report and the concerns expressed in the Director's report about the Ombudsman's approach in this case; and

(2) whilst the Committee also notes the proposed meeting between the Director of Children's Services and the Ombudsman, the Acting Monitoring Officer and Proper Officer be authorised to respond to the Ombudsman stating that the Council will implement the recommendations contained in her report, at the same time drawing her attention to the content of the Director's report and to the strength of feeling among the members of this Committee's, as expressed in this minute;

(3) the Committee receive a report back on the outcome the Director's meeting with the Ombudsman.

7 LOCAL ASSESSMENT

Further to minute 39 (31/3/08), the Acting Monitoring Officer and Proper Officer reported on the implications of the changes to ethical framework for local government. The relevant provisions had come into force on 8 May 2008. The Annual Meeting of the Council had approved the necessary amendments to the terms of reference of the Standards Committee (set out in appendix 4 to his report). The report also set out for the Committee's consideration the impact of the changes and sought approval for the various steps to implement the requirements of the Local Government and Public Involvement in Health Act 2007.

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They included the requirement to set up panels to consider local assessment; agreeing the format for publicising complaints processes and the criteria to be applied in considering whether a complaint should be investigated (including access to information considerations); establishing a protocol for dealing with complaints; and training for members on local assessment. He also alerted members to the possible financial implications for the Corporate Services Department in dealing with local assessment.

Resolved - That

- (1) the amended terms of reference of the Standards Committee be noted;**
- (2) the establishment of the sub-committees to deal with complaints, namely:
(a) the Initial Assessment Panel;
(b) the Review Panel; and
(c) the Hearings Panel
be approved with the terms of reference contained in Appendix 5, and a flow diagram be produced in order to provide a clear guide to the various stages of the complaints procedure;**
- (3) the documentation to be placed on the Council's website in order to publicise the procedure (Appendix 6) be endorsed;**
- (4) the assessment criteria contained within Appendix 7 be approved;**
- (5) the protocol for dealing with complaints set out in Appendix 8 be approved;**
- (6) having considered the practical implications of the proposed procedure, the Committee believes that it would be appropriate to increase the number of elected members from six to nine (which still maintains the requirement to have 25% of the membership as independent members);**
- (7) the terms of reference of the sub-committees, the assessment criteria and the protocol for dealing with complaints, together with the request for an increase in the membership of the Committee, be referred to the Cabinet and the Council as part of the current review of the Constitution; and**
- (8) the proposal to seek to establish a Merseyside forum for independent members be approved and the Committee receive a report on progress;**
- (9) the Committee accepts that it will not be practicable to proceed with the training event proposed for 16 July, and the Acting Monitoring Officer and Proper Officer be requested to arrange an alternative date convenient to the largest number of members as early as possible.**

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8 **LOCAL COMPLAINT**

The Acting Monitoring Officer and Proper Officer reported that he had received a complaint about the conduct of an elected member, which would have to be dealt with in accordance with the new procedures set out in minute 7 above.

Resolved - That the Acting Monitoring Officer and Proper Officer make the necessary arrangements to convene a meeting of the Initial Assessment Panel within the required timescale.

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WIRRAL COUNCIL

STANDARDS COMMITTEE – 30 SEPTEMBER 2008

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

LOCAL GOVERNMENT OMBUDSMAN – ANNUAL LETTER AND CURRENT PERFORMANCE

1. **Executive Summary**

The Local Government Ombudsman (LGO) produces annually a letter on each local authority. The letter sets out the number of complaints made to the LGO about the authority, the outcomes, how they have been dealt with and response times. The LGO's latest annual letter on Wirral was published in June 2008. A copy of the letter is attached as Appendix 1 to this report. This report sets out the contents of the letter and the current performance in this Financial Year on response times.

2. **Background**

Members will recall that this committee, at its meeting on 25 September 2007 considered the last Annual Letter of the Local Government Ombudsman. This highlighted an average response time of 112 days. This figure included multiple cases involving a complex housing benefit issue which was the subject of litigation. If these cases were not considered the average would have been 43 days. The target response time is 28 days for most complaints, 14 days for complaints relating to schools admission appeals.

3. **Response Times**

- 3.1 This committee approved an Action Plan on 26 November 2007 to address the issue of poor response times. In her annual letter the LGO notes a marked improvement in the Council's performance. She states:

I ask all authorities to respond to my initial enquiries within 28 calendar days. During the year I made detailed enquiries of the Council on 32 occasions and I am pleased to place on record the fact that, on average, the Council took 26.8 days to reply to my office. This is a significant improvement on recent years and I am grateful to the Council for the effort it has clearly made, following my annual letter last year and my meeting with the Council's Chief Executive earlier in the year. I congratulate the Council for its performance this year.

- 3.2 This improved performance has been the result of a clear action plan, regular monitoring of performance and sustained effort on the part of many staff across all departments.

4. **Number of Complaints**

- 4.1 In her letter the LGO states:

During the year I received 81 complaints against the Council, a slight increase in complaints when compared with the previous year when I received 77. There

is nothing of concern in a rise of such modest proportions. No trends or patterns emerged to give rise to alarm.

5. Other Findings

- 5.1 The LGO made positive comments about the way in which the Council deal with complaints. She states:

Subject only to what I say in the paragraph below I commend the Council for the positive way it is prepared to respond when something has gone wrong.

- 5.2 However, the LGO also states:

I raised with the Council last year some concerns about the way in which it deals with complaints through its internal complaints procedures. The indications from the complainants I have dealt with are that the Council's procedures are not, as yet, either as quick to deal with these complaints or as robust as they should be. I have had complaints this year about delays and inadequate investigation into complaints about children and family services issues. A constructive meeting was held during the year between an officer of the Council and one of my investigators and I hope there will be improvement during the coming year.

- 5.3 The Director of Children Services is aware of this issue and improvements are being made. The Department's performance in relation to complaints was the subject of a report to the Children's Services and Lifelong Learning Overview and Scrutiny Committee on 2 June 2008. A copy of that report is attached as Appendix 2 to this report.

6. Current Performance

To date in 2008/09 the Council has received 14 complaints. The response times and performance are set out below.

Period	No. of Complaints	Response Times in days
01.04.08-30.06.08	8	17.4
01.07.08-date	6	21
Overall Year to date	14	18.8

7. Proposed Changes to Process for Dealing with LGO Complaints

At present the processing of Ombudsman's Complaints is dealt with within the Legal and Member Services section. It has been agreed at Chief Officer's Management Team ("COMT") that the processing of ombudsman's complaints be transferred to the Head of Revenues and Benefits and Customer Services within the Finance Department. This is because the process sits more appropriately within the customer services responsibilities of the section. The proposed handover date is 1 November 2008. There will be regular liaison meetings during the handover period to ensure that the changes do not affect

the performance. Regular performance monitoring reports will continue to be brought to COMT and this committee.

8. **Corporate Objectives**

The manner in which the Council responds to the LGO contributes towards the Council's objective to be an excellent council. The improvement in response times is a significant step towards that objective. The LGO's statement that the council responds positively when things go wrong also contributes towards that objective.

9. **Financial and Staffing Implications**

There are none arising directly from this report.

10. **Local Member Support**

There are no implications for individual wards arising directly from this report.

11. **Equal Opportunity Implications**

There are none arising directly from this report.

12. **Human Right Implications**

There are none arising directly from this report.

13. **Local Agenda 21 Implications**

There are none arising directly from this report.

14. **Community Safety Implications**

There are none arising directly from this report.

15. **Planning Implications**

There are none arising directly from this report.

16. **Background Papers**

There are no background papers

17. **Recommendation**

That the Committee notes the contents of this report.

BILL NORMAN

Director of Law, HR and Asset Management

SG/LW. PR/S10/1

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**The Local Government Ombudsman's
Annual Letter**

**Wirral Metropolitan Borough
Council**

**for the year ended
31 March 2008**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual letters.

Annual Letter 2007/08 - Introduction

This annual letter provides a summary of the complaints received about Wirral Metropolitan Borough Council and comments on the authority's performance and complaint-handling arrangements.

I hope that the letter will assist you in improving services by providing a useful perspective on how some people who are dissatisfied experience or perceive your services.

Two attachments form an integral part of this letter: statistical data covering a three year period and a note to help the interpretation of the statistics.

Complaints received

During the year I received 81 complaints against the Council, a slight increase in complaints when compared with the previous year when I received 77. There is nothing of concern in a rise of such modest proportions. No trends or patterns emerged to give rise to alarm.

Liaison with the Local Government Ombudsman

I ask all authorities to respond to my initial enquiries within 28 calendar days. During the year I made detailed enquiries of the Council on 32 occasions and I am pleased to place on record the fact that, on average, the Council took 26.8 days to reply to my office. This is a significant improvement on recent years and I am grateful to the Council for the effort it has clearly made, following my annual letter last year and my meeting with the Council's Chief Executive earlier in the year. I congratulate the Council for its performance this year.

Decisions on complaints

Reports and local settlements

We will often discontinue enquires into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. In 2007/08 the Local Government Ombudsmen determined 27% of complaints by local settlement (excluding 'premature' complaints - where councils have not had a proper chance to deal with them - and those outside our jurisdiction). If an investigation is completed I issue a public report.

I issued one report against the Council during the year. This complaint was essentially a complaint about the support given to a foster parent but it also encompassed a concern about the way in which the Council dealt with the initial complaint through its statutory social services complaints procedure. The Council agreed to pay the complainant and his daughter £10,500 in recognition of the payments it should have made to support the fostering and, although I regret that it was necessary to issue a report critical of the Council, I commend the Council for the willingness, ultimately, to offer a remedy.

Other findings

I determined 87 complaints during the year, a figure which differs from the number of complaints sent to me because of work in hand at the beginning of the year. Twenty two complaints were sent to me prematurely and I sent each of these to the Council so that it might have the opportunity of addressing the matter. Seven complaints were outside of my jurisdiction while in 20 cases I exercised the general discretion available to me not to pursue the matter. In 23 cases I found there to be no evidence of maladministration while in 14 cases the Council agreed to act, accepting that something had gone wrong and that it would be appropriate to offer some form of remedy. Subject only to what I say in the paragraph below I commend the Council for the positive way it is prepared to respond when something has gone wrong.

Your Council's complaints procedure and handling of complaints

I raised with the Council last year some concerns about the way in which it deals with complaints through its internal complaints procedures. The indications from the complainants I have dealt with are that the Council's procedures are not, as yet, either as quick to deal with these complaints or as robust as they should be. I have had complaints this year about delays and inadequate investigation into complaints about children and family services issues. A constructive meeting was held during the year between an officer of the Council and one of my investigators and I hope there will be improvement during the coming year.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. A detailed evaluation of the training provided to councils over the past three years shows very high levels of satisfaction.

The range of courses is expanding in response to demand. In addition to Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution) we now offer these courses specifically for social services staff and a course on reviewing complaints for social care review panel members. We will customise courses to meet your Council's specific requirements and provide courses for groups of staff from different smaller authorities.

Participants benefit from the complaint-handling knowledge and expertise of the experienced investigators who present the courses.

I enclose information on the full range of courses available together with contact details for enquiries and any further bookings.

LGO developments

We launched the LGO Advice Team in April, providing a first contact service for all enquirers and new complainants. Demand for the service has been high. Our team of advisers, trained to provide comprehensive information and advice, has dealt with many thousands of calls since the service started.

The team handles complaints submitted by telephone, email or text, as well as in writing. This new power to accept complaints other than in writing was one of the provisions of the Local Government and Public Involvement in Health Act, which also came into force in April. Our experience of implementing other provisions in the Act, such as complaints about service failure and apparent maladministration, is being kept under review and will be subject to further discussion. Any feedback from your Council would be welcome.

Last year we published two special reports providing advice and guidance on 'applications for prior approval of telecommunications masts' and 'citizen redress in local partnerships'. Feedback on special reports is always welcome. I would particularly appreciate information on complaints protocols in the governance arrangements of partnerships with which your Council is involved.

Conclusions and general observations

I welcome this opportunity to comment on our experience of complaints about the Council over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**Anne Seex
Local Government Ombudsman
Beverley House
17 Shipton Road
YORK
YO30 5FZ**

June 2008

Enc: Statistical data
Note on interpretation of statistics
Leaflet on training courses (with posted copy only)

Complaints received by subject area	Adult care services	Benefits	Children and family services	Education	Housing	Other	Planning & building control	Public finance	Transport and highways	Total
01/04/2007 - 31/03/2008	8	7	7	9	1	22	21	1	5	81
2006 / 2007	8	2	8	10	5	10	17	3	14	77
2005 / 2006	12	54	9	15	6	10	13	1	8	128

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	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2007 - 31/03/2008	1	14	0	0	23	20	7	22	65	87
2006 / 2007	0	8	0	0	22	41	7	17	78	95
2005 / 2006	0	11	0	0	24	19	5	41	59	100

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

Average local authority response times 01/04/2007 to 31/03/2008

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2007 - 31/03/2008	32	26.8
2006 / 2007	52	111.9
2005 / 2006	47	36.6

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	56.4	24.6	19.1
Unitary Authorities	41.3	50.0	8.7
Metropolitan Authorities	58.3	30.6	11.1
County Councils	47.1	38.2	14.7
London Boroughs	45.5	27.3	27.3
National Park Authorities	71.4	28.6	0.0

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APPENDIX 2

WIRRAL COUNCIL

CHILDREN'S SERVICES AND LIFELONG LEARNING OVERVIEW AND SCRUTINY COMMITTEE – 2ND JUNE 2008

REPORT OF THE DIRECTOR OF CHILDREN' S SERVICES

COMPLAINT MONITORING

EXECUTIVE SUMMARY

This report provides members with an analysis of complaints registered under The Children Act 1989 Representations Procedure (England) Regulations 2006 from 1st September 2007 to 31st March 2008.

1. BACKGROUND

- 1.1 This report has been compiled following members consideration of the Children's Services Annual Complaints Report (see minute 61 Children's Services and Lifelong Learning Overview and Scrutiny Committee 18.03.2008).
- 1.2 Ongoing quarterly reports will be submitted for members' consideration following a recommendation made by the Local Government Ombudsman (see minute 60 18.03.2008).

2. REGISTERED COMPLAINTS

- 2.1 During the six month reporting period the following complaints were registered:

33 Stage 1 complaints *[compared to 109 complaints for previous 12 months]*

4 Stage 2 complaints *[compared to 12 complaints for previous 12 months]*

0 Stage 3 complaints

3. STAGE ONE COMPLAINTS (LOCAL RESOLUTION)

- 3.1 The 33 Stage 1 complaints registered in the reporting period were registered by:



- 3.2 Stage One Complaints Made by Children

The average time taken to complete/resolve the 11 complaints made by a child/young person was 22 working days – compared to 58 days in the last reporting period.

The reduction in the number of working days to resolve complaints made by children and young people has been brought about by:

- Access to the 'Respond' database in order that the Children's Complaints Officer can directly input information.
- Children and young people's complaints process and the need for timely resolution is embedding into practice. In the previous reporting period one particular case skewed the average response time.

83.3% of the complaints made by a child/young person were completed within the maximum timescale of 20 working days.

3.3 Stage One Complaints Made by Adults

The average time taken to complete/resolve the 22 complaints made by adults with parental responsibility or day to day care was 12.3 days.

81.8% of these complaints were completed within the maximum timescale of 20 working days.

4. **STAGE TWO COMPLAINTS (FORMAL INVESTIGATION)**

4.1 The average time taken to complete the Stage 2 investigations was 33 working days.

4.2 The average time taken to produce a Departmental response following investigation was 28.6 working days.

4.3 75% of Stage 2 complaints were completed within the maximum timescale of 65 working days.

6. **STAGE 3 COMPLAINTS (INDEPENDENT REVIEW PANEL)**

6.1 One Independent Review Panel has been held during the reporting period relating to a complaint registered and investigated prior to 1st September 2006. Recommendations from Panel have been actioned and the Director's response to Panel was made within the regulatory timescale.

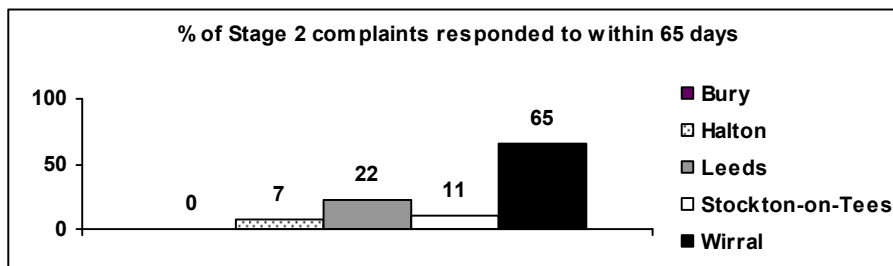
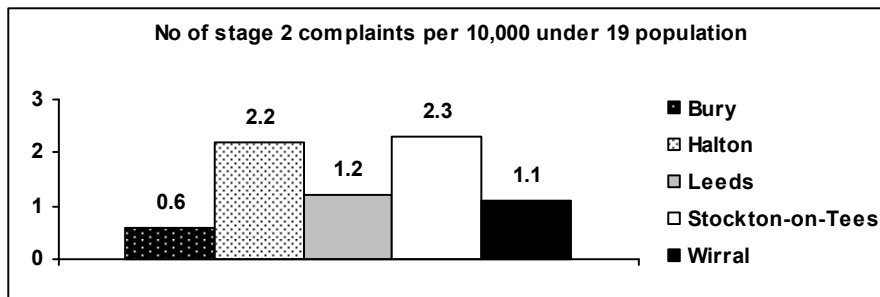
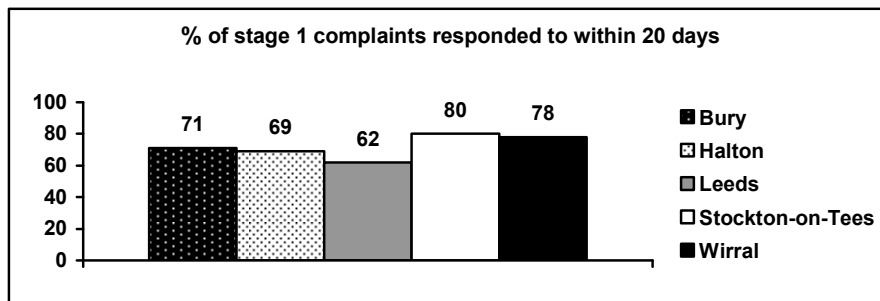
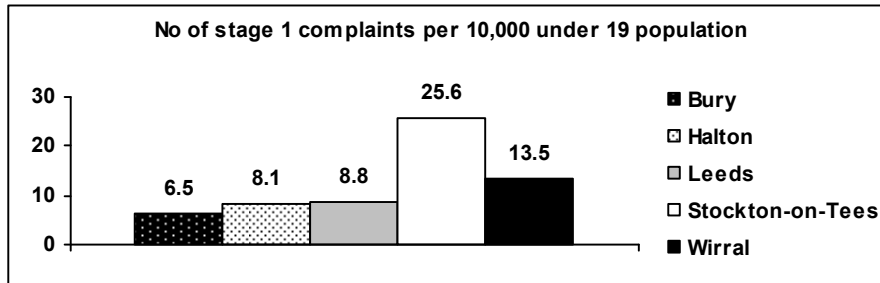
6.2 There are no outstanding Stage 3 complaints.

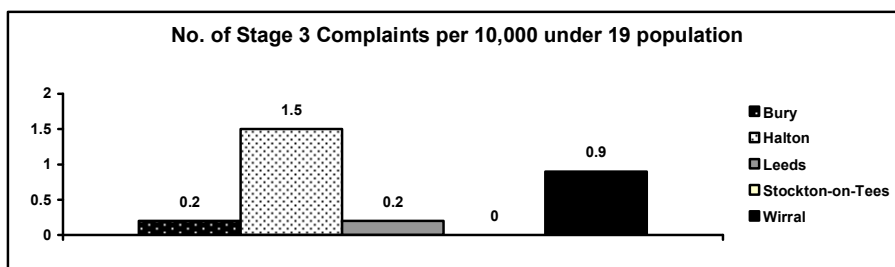
7. **BENCHMARKING**

In order to benchmark Wirral's performance in handling complaints about Children's Services statistics from Wirral's Statistical Neighbours were requested.

Four authorities shared their last annual report and some comparisons are shown below.

Comparisons with Statistical Neighbours for the reporting period 2006 - 2007





8. FINANCIAL AND STAFFING IMPLICATIONS

There are no direct financial and staffing implications arising from this report.

9. EQUAL OPPORTUNITIES IMPLICATIONS

None arising directly from this report.

10. HUMAN RIGHTS IMPLICATIONS

None arising directly from this report.

11. LOCAL AGENDA 21 IMPLICATIONS

None arising directly from this report.

12. COMMUNITY SAFETY IMPLICATIONS

None arising directly from this report.

13. PLANNING IMPLICATIONS

None arising directly from this report.

14. LOCAL MEMBER SUPPORT IMPLICATIONS

None arising directly from this report.

15. BACKGROUND PAPERS

The Children Act 1989 Representations Procedure (England) Regulations 2006
Getting the Best from Complaints 2006

16. RECOMMENDATIONS

Members are asked to note this report.

Howard Cooper
Director of Children's Services

WIRRAL COUNCIL

STANDARDS COMMITTEE – 30 SEPTEMBER 2008

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

AMENDMENT TO THE SCHEME OF DELEGATION IN RELATION TO THE SETTLEMENT OF COMPLAINTS

1. **Executive Summary**

The current scheme of delegation provides for the amounts which can be paid as compensation to settle complaints. There are practical difficulties with the current scheme which inhibit the ability of the Council to effectively respond to complaints and resolve them at the earliest possible stage. This report seeks the endorsement of this Committee to amendments to the scheme to be referred to Cabinet and Council for approval.

2. **Background**

2.1 The current scheme of delegation authorises all Chief Officers to:

...settle complaints of maladministration, after consultation with the Director of Finance and the Director of Corporate Services, by making compensation payments up to a maximum of £800 in any one case, provided the amount of compensation to be offered has been approved informally by the Local Ombudsman. (Cases over £800 are dealt with by the Standards Committee - see Article 9 in Part 2).

2.2 The Terms of Reference of this Committee deal with cases over £800. They state:

...approve the payment of compensation involving sums in excess of £800 (or less, if considered appropriate) to settle complaints of maladministration, provided the amount of compensation to be offered has been approved informally by the Local Ombudsman.

3. **Difficulties with the Current Scheme**

3.1 It is best practice for any complaints scheme to seek to resolve any problem at the earliest possible stage. Under the current scheme of delegation a Chief Officer and indeed this committee only has power to offer compensation when the Ombudsman has “approved informally” the amount. In practice the Ombudsman is unlikely to want to express an informal view without conducting at least an initial investigation. This means that complaints which could be settled relatively easily become protracted. It also means that cases take up unnecessary additional time commitment for officers and the Ombudsman’s office.

3.2 The Ombudsman has produced guidance on the operation of Council Complaints Procedures. It states:

49 The complaints system is there to put things rights if they have gone wrong (to provide a remedy'). The remedy should fit the harm or injustice to the complainant. Section 92 of the Local Government Act 2000 gives councils a general power to pay compensation or take other remedial action. Money is not the only, or necessarily the best, remedy in every case. Complainants should be asked to say what they think would be a reasonable and fair outcome.

50 Councils should have a policy on remedies as part of their complaints system. They should also consider delegating authority to officers at the appropriate level to make decisions on remedies.

- 3.3 It is important to stress that compensation should not be seen as the only or even the principal way of resolving a complaint, often other remedies are far more appropriate, such as an apology or changes in service provision which ensure any mistakes will not recur in the future.

4. Proposed Amendments

- 4.1 In order to improve the Council's response to complaints it is proposed that the limits are increased and the requirement for informal consultation with the LGO be removed. Therefore the following amended terms are proposed:

To the Officers Scheme of Delegation

...settle complaints of maladministration, after consultation with the Director of Finance and the Director of Law, HR and Asset Management, by making compensation payments up to a maximum of £1,000 in any one case. The terms of such settlements shall subsequently be reported to the Standards Committee.

...settle complaints of maladministration, after consultation with the Chair of the Standards Committee, the Director of Finance and the Director of Law, HR and Asset Management, by making compensation payments up to a maximum of £10,000 in any one case. The terms of such settlements shall subsequently be reported to the Standards Committee (Cases over £10,000 are dealt with by the Standards Committee - see Article 9 in Part 2).

To the Terms of Reference of this Committee

...approve the payment of compensation involving sums in excess of £10,000 to settle complaints of maladministration.

5. Corporate Objectives

The manner in which the Council responds to complaints contributes towards the Council's objective to be an excellent council. The changes proposed will enable the Council to respond more efficiently and appropriately which will contribute towards this corporate objective.

6. Financial and Staffing Implications

There are none arising directly from this report.

7. Local Member Support

There are no implications for individual wards arising directly from this report.

8. **Equal Opportunity Implications**

There are none arising directly from this report.

9. **Human Right Implications**

There are none arising directly from this report.

10. **Local Agenda 21 Implications**

There are none arising directly from this report.

11. **Community Safety Implications**

There are none arising directly from this report.

12. **Planning Implications**

There are none arising directly from this report.

13. **Background Papers**

There are no background papers

14. **Recommendation**

That the Committee endorses the amendments to the Scheme of Delegation for Officers and the Terms of Reference for this Committee for referral to Cabinet and Council for approval.

BILL NORMAN

Director of Law, HR and Asset Management

SG/LW.

11 September 2008

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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