

MONITORING OFFICER REPORT 2007/2008**Report By: Assistant Chief Executive, Legal and Democratic****Wards Affected**

County-wide

Purpose

1. To inform the Committee of the Authority's performance for 2007/08 with regard to complaints to the Ombudsman, Whistleblowing and those matters within the responsibility of the Monitoring Officer's control as the Head of Legal and Democratic Services.

Background

2. The Committee should be aware that the role of the Monitoring Officer is a statutory office whose duties are set out in the Local Government and Housing Act 1989 and the Local Government Act 2000. The main responsibilities of the Monitoring Officer are to ensure that the Council and its Elected Members act with probity in accordance with the law and in accordance with its Constitution and to avoid determinations of maladministration being issued by the Local Government Ombudsman.
3. The Monitoring Officer is also responsible for carrying out investigations and reporting to the Standards Committee of the Council any breaches of the Code of Conduct of members referred to it by the Standards Board for England.

RECOMMENDATION

THAT the Report be noted and for the Committee to make comment.

Considerations

4. The Local Government Ombudsman issues an Annual Letter for all councils reflecting on the complaints they receive against individual authorities and any recommended action. The Local Government Ombudsman's statistics for the year ended 31 March 2008 is appended to this report as Appendix 1.
5. The Ombudsman comments favourably on several aspects of the Council's complaints handling arrangements. Key issues from the Annual Letter are:
 - During this period 46 complaints were determined. Of these 5 complaints were referred back to the Council because they were premature, 6 were outside the Ombudsman's jurisdiction, 35 showed no or insufficient evidence of maladministration and the Ombudsman decided not to investigate a further 5 under his general discretion, mainly because

complainants had not suffered significant injustice from the fault claimed.

- One report of maladministration was issued against the Council in respect of a planning matter in 2005/06 and is still in the course of being resolved. When the Ombudsman completes an investigation a report is issued. The Ombudsman issued one report in relation to a planning matter in that the Council failed to give adequate reasons for granting planning permission. The Ombudsman has recommended the Council carry out a before and after valuation of the complainant's property and pay him the difference as compensation for the injustice. The District Valuer's has carried out valuations of the complainant's property as requested by the Ombudsman. His report has been submitted to the Ombudsman for his consideration and we are awaiting his response on this.
 - A further three complaints were resolved by Local Settlement. "Local Settlement" is where during the course of an Ombudsman investigation, the Council has agreed to take some action which is considered a satisfactory response to a complaint. The investigation is then discontinued.
 - The Ombudsman indicates that the Council's complaints procedure is well publicised in comparison with other councils, accessible and working well as the proportion of complaints treated as premature was low and well below the national average of 27%.
 - The Council has improved its performance with regard to reducing the time taken to respond to enquiries from his office from 31.8 days in 2005/06 to 23.1 in 2007/08 and the Council is now placed in the top quartile of responders of 28 days. The Ombudsman has commented on the Council's steady progress in the reduction of response times since 2005/06 and that this has greatly assisted the work of the Ombudsman.
6. The Ombudsman commented that during the period 46 complaints were received against the Council which is a slight decrease on the previous year. Planning complaints have fallen in this period from 21 in 2006/07 to 12 in 2007/08.

Herefordshire's Comments and Complaints Procedure

7. Recording of the Level I, II and III comments, complaints and compliments received within each Directorate/Department, are currently maintained by the relevant Complaints Administrator using a combination of the Customer Relationship Management (CRM) and ComTrac, the Council's computerised recording system. Reports can be produced for each respective Directorate Management Team from COMTRAC.
8. Leaflets are available at receptions, libraries and Info Shops or Points to enable the public to register their comments, complaints and compliments. This leaflet now incorporates a cut off section to enable the Council to monitor the ethnicity of complainants and report accordingly.

9. The public can also register their feedback on line by accessing the Herefordshire Council website to complete the electronic complaints form.
10. A breakdown of the informal and formal complaints received by Directorate/Department, is shown in Appendix 2.

Ethnicity Monitoring

11. Diversity monitoring is included in all totals for 2007/08

Level 3 Complaints

12. The Complaints Panel (Level III meet to hear unresolved complaints from members of the public following review at Level I (by the local manager) and Level II (by Director). The Panel comprises the Chief Executive and two Group Leaders advised by Legal Services. During 2007/08 it heard a total of 21 complaints. Three were partially upheld.

Directorate/ Department	No. of Complaints / Section	Outcome
Environment	12 - Planning 1 – Highways and Transportation 3 – Environment Health & Trading Standards	11 Not upheld; 1 Partially upheld 1 Not upheld 3 Not upheld
Adult & Community Services	1 – Info in Herefordshire	1 Partially upheld
Children's Services	3 – Education	2 Not upheld; 1 partially upheld
Corporate and Customer Services	1 – Legal and Democratic Services	1 Not upheld

Standards Committee

13. The Standards Committee is chaired by Mr Robert Rogers, an independent member who resides within the county. The business of the Committee during 2007/08 was to conduct hearings to determine local investigations referred to the Committee by the Standards Board for England and considering matters of good governance.
14. Legislative changes in May 2008 mean the work of the Standards Committee is likely to increase due to the requirement for most complaints against Members and Parish Councillors to be dealt with by the Committee. The Committee has been required by law to arrange for part of its work to be dealt with by an Assessment Sub Committee and Review Sub Committee. This has necessitated in the recruitment of additional independent members to ensure that those committees are quorate.
15. Training seminars have taken place with HALC and further seminars are planned through the year for both Members and Parish Councillors. The Committee is working closely with HALC and Parishes to ensure that its guidance to parish clerks and councillors is reviewed.

16. For the period 1st April 2007 to 31st March 2008 the Committee dealt with allegations of breach of the Code of Conduct. Four related to parish councillors, 7 to Herefordshire Council Members. All 11 referrals were determined by the Committee as not investigated. Four of these complaints were then referred by the complainant to the Standards Board for England for review. The Standards Board for England upheld the Committee's decision on all four matters.
17. Since the implementation of the local filter system in May 2008, the Committee has received allegations from May to August 2008 in relation to 12 Councillors. Two in relation to Herefordshire Council Members and the remainder in respect of Parish Councillors. The Assessment Sub-Committee has during this period met on four occasions.

Register of Gifts and Hospitality

18. The Monitoring Officer is required to monitor and maintain a register of the gifts and hospitality offered to both members and officers of the Council. It is incumbent on members and officers to register such gifts and hospitality over £25.00 even if it is only offered and not accepted.
19. Over the period 1st April 2007 to 31st March 2008, 95 declarations were made.

Register of Members Interests

20. All members of the Council are required to register any personal and prejudicial interest that might affect or give the public the perception of affecting their decision making. The register of such interests is retained by the Monitoring Officer.
21. Apart from the register, members are required to notify the Monitoring Office at any meeting of the Council of any personal or prejudicial interest prior to the start of any such meetings and these are recorded in the minutes.
22. All members of the Authority have registered their interests following the election of the new administration. It is incumbent on Members to ensure that their register of interests is updated and there is a legal requirement to notify the Monitoring Officer within 28 days of any changes to the register. The register of interests for Parish Councillors is also retained by the Monitoring Officer and the legal requirement for notification of changes to the register applies.

Risk Management

23. Officers and Members are regularly briefed by Legal Services on any changes in legislation or case law that may impact on the delivery of services or impose statutory duties on the Authority. New legislation and significant case law is monitored by Legal Services and when impact is foreseen in respect of any of the Council's Directorates, an Impact Assessment Report which can be electronically accessed through the intranet is prepared. Key

Managers are advised by e-mail when new Impact Assessment Reports become available. The process of impact assessment reporting is underpinned by a programme of training rolled out to both officers and members. In the period covered by this report, there have been ten such seminars, covering Member diversity training, court room skills for officers called as witnesses, panel training in respect of school admission appeals and a variety of specialist legal topics germane to officers working in Highways and Transportation, property work and Freedom of Information issues.

24. Complaints of any nature either to the Ombudsman or referred to the Standards Committee can result in a risk to the Council's reputation. In the case of the Ombudsman, compensation can be recommended.
25. The failure of officers and/or members to register gifts or interest can have an effect on the Council's reputation. In the case of a member it could be referred and investigated by the Standards Board for England or the Standards Committee who are required to publish the results of any such investigations.

Consultees

- None identified

Appendices

Appendix 1 – The Local Government Ombudsman's statistics for the year ended 31 March 2008.

Appendix 2 – Complaints (received Informal and Formal) 2007/08

Appendix 3 – Compliments Received 2007/08

BACKGROUND PAPERS

- None identified