

MEMORANDUM

To: All Investigative Staff
From: Chairman
Ref:
Date: 26 September 1995

SUBJECT: Delegation

In accordance with the Local Commissioners decision to delegate some Stage I decisions to investigators and complaint examiners, I attach a guidance note on the scope of the delegation and the formal instrument giving staff the necessary authority. This will come into effect on 1 October 1995.

Edward Osmotherly

DELEGATION OF SOME STAGE 1 DECISIONS
GUIDANCE NOTE FOR STAFF

Purpose of Note

1. From 1 October 1995 the Ombudsmen will delegate to investigators and complaint examiners the power to make some decisions at Stage 1 to terminate consideration of complaints. The purpose of this note is to provide guidance for staff on the scope of the delegation and the Ombudsman's requirements for the way the delegated authority is to be exercised.

Initial Scrutiny - Unchanged

2. The present arrangements for Initial Scrutiny will be reviewed by the Group led by Mr White which is taking forward the work on options for reducing elapsed times. Meantime, the arrangements are unchanged.

Decision to go to Stage 2 - Unchanged

3. Similarly, the decision whether to go to Stage 2 remains unchanged. Assistant Directors retain delegated authority to take the decision after consultation if necessary with the Director and/or the Ombudsman.

Stage 1 Decisions that must be put to Ombudsmen

4. From 1 October 1995, Ombudsmen must be consulted about, and will decide who should sign termination letters concerning, complaints where:
 - (a) the decision is not patently consistent with the Commission's Technical Manual, or other guidance given by the Commission;

- (b) a Member of the House of Commons or the House of Lords has been involved in making the complaint to the Ombudsman;
- (c) the matter appears likely to cause public controversy or significant media interest locally or nationally;
- (d) the matter concerns Members' interests;
- (e) there is any doubt whether to terminate or any exceptional feature.

Delegation of the Stage 1 Decisions to Investigators and Complaint Examiners

5. Where, using current expectations of skill, competence and care, the investigator or complaint examiner to whom the complaint has been allocated considers that the case falls within none of the classes mentioned in 5 above and where the investigator or complaint examiner would previously have recommended termination, the investigator or complaint examiner will be authorised to take the decision to terminate and to issue the decision letter in his or her own name. The Ombudsmen emphasise that, if there is any doubt whether to terminate, the case should be referred to the Assistant Director who will decide if it need be put to a Director or Ombudsman.

Delegation of Discretion under Section 26(4)

6. Subject, to the terms of paragraphs 4 and 5 above, the Ombudsmen will from 1 October 1995 delegate to investigators and complaint examiners authority to exercise the discretion given to them by section 26(4). Again, if there is any doubt about the decision, the case should be referred to the Assistant Director.

Section 26(6) Discretion

7. Assistant Directors will have delegated authority to exercise the discretion under 26(6) to decide to investigate at Stage 2.

Delegation of Decisions under Section 26(5)

8. Again, subject to the terms of paragraphs 5 and 6 above, the Ombudsmen will delegate to investigators and complaint examiners decisions to terminate complaints under section 26(5). The Ombudsmen, as now, will be content for cases to be terminated under this sub-section if there is no evidence that the complaint has yet been put in writing to the Chief Executive or an appropriate senior officer or a Councillor or the Council's complaints procedure and that a reasonable period has not been allowed for a response from any of them.

Local Settlements at Stage 1

9. Local settlements at Stage 1 will continue to require the approval of an Assistant Director or (where appropriate) of a Director and/or Ombudsman. Where such an approval is given, the decision letter conveying the decision to terminate the complaint may be signed by the investigator or complaint examiner subject to the terms of paragraph 5.

Sending Complainants the Council's Comments

10. Comments from the Council should be sent to complainants, with either a neutral or half dead letter, before a decision is made, subject to the exceptions listed below:
 - (a) Where the Council offers to settle on terms requested by the complainant and which are considered to be satisfactory;

- (b) where there is nothing in the comments not already known to the complainant;
- (c) where the Council has asked and we accept that comments should be kept confidential;
- (d) where the complainant has moved and has left no forwarding address;
- (e) where there is a jurisdictional termination with no discretion.

Standard Rejection Letters

11. The standard letters for the termination of complaints at Stage 1 will be amended as follows:

"The Local Government Ombudsman has asked me to consider your complaint against @ Council and to write to you."

The letter should not expressly or implicitly say that it conveys the personal decision of the Ombudsman. Some examples of letters where complaints have been terminated by staff in London under the temporary arrangements are attached.

Files and Screensheets - Unchanged

12. Even where the Ombudsmen will not be making the decision, screensheets must be completed giving the details of the complaint etc as previously, and files must be kept in good order. Legible notes of telephone conversations and face to face interviews should always be included in the file.

"Comebacks"

13. Each Ombudsman will make his or her own arrangements for dealing with comebacks. The Commission will give further

consideration to whether it would be desirable to make the arrangements uniform at some stage.

Monitoring

14. For at least the first six months of the new arrangements, 10% of cases terminated by investigators or complaint examiners will be monitored by the Ombudsmen personally after the decision letter has been issued. The aim of monitoring is:

- (a) to help keep Ombudsmen informed of the range and nature of complaints;
- (b) to assist in achieving consistency of decisions;
- (c) to enable Ombudsmen to provide feedback to individuals and line managers on questions of style, substance or quality;
- (d) to help Ombudsmen satisfy themselves that the delegation arrangements are working satisfactorily and to decide whether change or further guidance is required.

Review of the Arrangements

15. The Ombudsmen will review these delegation arrangements and this guidance after the arrangements have been in operation for six months. If necessary, changes can be made before this.

Commission for Local Administration
26 September 1995