

Report to: Standards Committee – 9 March 2009

Report by: Head of Customer Services

Written by: Carol Cunningham, Corporate Complaints Investigative Link Officer

Local Government Ombudsman Report on the investigation into complaint no. 07/B/14737 against Portsmouth City Council

1. Purpose of Report

To bring to the attention of the Standards Committee the report by the Local Government Ombudsman into case number 07/B/14737 against Portsmouth City Council. The ombudsman found that injustice had been caused by maladministration on the part of the council.

2. Recommendations

- That the Standards Committee note the report
- That the Standards Committee note that the Council has implemented the actions agreed with the Local Government Ombudsman
- That the Standards Committee notes the further actions taken by the Council as a result of this complaint.

3. Background

The full report by the Local Government Ombudsman is available on the Portsmouth City Council website or from the Corporate Complaints Investigative Link Officer.

The Council invited tenders for one-year licences to sell ice cream from its land, but subsequently granted three-year licences to the highest bidder for three of the sites concerned. In each case the highest bidders were the current licence traders and the amounts they bid represented a good return for the Council. But its actions deprived the complainant of the business opportunity to bid for these licences for the following two years.

Mr W complained that the Council gave him incorrect information regarding opportunities for applying for ice cream concessions within it's area and that it granted licences to another trader on more favourable terms than those for which he was allowed to tender.

He applied for three concessions, which were offered for a 12-month period, but was unsuccessful on each. When he asked for the application forms the following year so he could bid for the same sites again the Council told him the sites were not available.

The previous year it had granted the successful bidders three-year concessions on the grounds that they had offered high rentals, were experienced traders and could demonstrate good track records.

The complainant felt that this practice discriminated against him as a new trader. There was no indication on the tender forms that a licence for more than one year might be awarded. Moreover, he argued that he would have paid more money for a three-year concession had he known that was on offer.

The Local Government Ombudsman concluded that the public has a right to expect that the Council will be open and transparent in its dealings with them. Mr W was sent an application form, which invited a tender for a one-year licence. So he was entitled to expect that the successful tenderer would be given just that and that when the 12 months were up the licence would be re-tendered. It was maladministration for the Council to award a three-year licence having tendered on the basis of a licence for one year.

The Local Government Ombudsman made the following recommendations, which the Council accepted.

- A ex gratia payment of £2500 to remedy the injustice caused to Mr W.
- That the Council review its arrangements for the granting of licences to sell ice cream from its land, and to consider whether this duties should be assigned to different officers from those who have operated these arrangements in the past.

The ombudsman was pleased to note that the Council had accepted these recommendations.

4. Actions from the Local Governments Report

- Asset Management Service has amended their tender documentation to invite interested parties to submit offers for a term of 'up to three years'.
- The ice cream concession cases have now been allocated to new officers.
- Ex gratia payment of £2500 has been paid to the Complainant.

5. Further Actions by Portsmouth City Council

- The Procurement Service has ensured that all contracts staff involved in the Tendering Process across Portsmouth City Council are aware that a tender can only be offered for the period it has been advertised for, and relevant policies, procedures and work instructions are to be amended as appropriate.
- The Procurement Service has implemented a process of transacting Tenders and Quotations using an electronic system called Intend; which is in the final stages of being rolled out across the Council.

6. Conclusion

Members to approve the recommendations set out above.

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Louise Wilders
Head of Customer Services