

Local Authority unreasonably failed to provide information on LIM

Legislation	Ombudsmen Act 1975
Agency	Local Authority
Ombudsman	Dame Beverley Wakem
Case number(s)	336855 (previously unpublished)
Date	2012

Local Authority failed to provide information in a Land Information Memorandum (LIM) about outstanding capital contribution for a sewer—Ombudsman considered Council acted unreasonably—Council made payment to complainant in resolution of complaint

The complainant believed that the Council had erred by not exercising its discretion to include information about a capital contribution that was outstanding on the property the complainant purchased. The Council had claimed that it could not provide this information to the complainant because the information did not yet exist.

The Ombudsman agreed that the Council's inaction in this respect had been unreasonable. The Council should have turned its mind to including information in the LIM that there was an outstanding capital contribution for connection to the Council sewerage system. The information was clearly available at the time that the LIM was requested. Further, the Ombudsman noted that had such consideration been given, it should have led to the conclusion that information about the outstanding capital contribution should have been included in the LIM that was issued.

The Ombudsman accepted that what action the complainants would have taken had they known about the outstanding contribution was speculation. The key point was that the complainants were not fully informed, and they did not make a decision on purchasing the property with all the relevant information because it was not included in the LIM.

The complaint was sustained and the Ombudsman suggested to the Council that it make an ex gratia payment of \$2000 to the complainants. The Council indicated that it was willing to credit the complainants' rates account with the sum of \$2,000 GST inclusive. The Ombudsman considered that this was a reasonable outcome.

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