
REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

Responsible Cabinet Member - Councillor Bill Dixon, Leader

**Responsible Director - Paul Wildsmith,
Director of Neighbourhood Services and Resources**

SUMMARY REPORT

Purpose of the Report

1. To provide Members with an update of the outcome of cases which have been determined by the Local Government Ombudsman (LGO) and to indicate any points for particular attention since the preparation of the previous report to Cabinet on 16 June 2015.

Summary

2. This report sets out in abbreviated form the decisions reached by the LGO since the last report to Cabinet. The report considers whether the authority needs to take any action as a result of the findings of the LGO.

Recommendation

3. It is recommended that the contents of the report be noted.

Reasons

4. The recommendation is supported by the following reasons :-
 - (a) It is important that Members are aware of the outcome of complaints made to the LGO in respect of the Council's activities.
 - (b) The contents of this report do not suggest that further action, other than detailed in the report, is required.

**Paul Wildsmith
Director of Neighbourhood Services and Resources**

Background Papers

Note: Correspondence with the LGO is treated as confidential to preserve anonymity of complainants.

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S17 Crime and Disorder	This report is for information to members and requires no decision. Therefore there are no issues in relation to Crime and Disorder.
Health and Well Being	This report is for information to members and requires no decision. Therefore there are no issues in relation to Health and Well Being.
Carbon Impact	This report is for information to members and requires no decision. Therefore there are no issues in relation to Carbon Impact.
Diversity	This report is for information to members and requires no decision. Therefore there are no issues in relation to Diversity.
Wards Affected	This report affects all wards equally.
Groups Affected	This report is for information to members and requires no decision. Therefore is no impact on any particular group.
Budget and Policy Framework	This report does not recommend any changes to the Budget or Policy Framework.
Key Decision	This is not a Key Decision.
Urgent Decision	This is not an Urgent Decision.
One Darlington: Perfectly Placed	This report contributes to all the delivery themes.
Efficiency	Efficiency issues are highlighted through complaints.

MAIN REPORT

Information and Analysis

5. Cabinet at its meeting on 14 May 2002 considered a report on the outcome of cases referred to the LGO during the Municipal Year 2001/02 and resolved that at each meeting of Cabinet a similar report should be submitted on the outcome of cases since the previous meeting of Cabinet. It was subsequently decided that this report would be provided on a bi-annual basis.

6. The opportunity is normally taken to analyse the areas of the Council's functions where complaints have arisen. It seems appropriate to do that in order to establish whether there is any pattern to complaints received or whether there is a particular Directorate affected or a type of complaint which is prevalent. If there were a significant number of cases in any one particular area, that might indicate a problem which the Council would seek to address.

7. The LGO has recently reduced the number of categories they use when determining complaints. In doing so the LGO condensed the numerous categories set out in the Local Government Act 1974 to align their findings more closely with those of Local Authorities. While not relevant to the maladministration decisions detailed below, the Council's experience to date has been that some decisions that would not have previously been categorised as maladministration injustice now are. This includes cases where following the LGO's investigation they determine that the Council's actions or proposed actions were sufficient to remedy the injustice caused.
8. Between 1 April 2015 and 30 September 2015, 12 cases were the subject of decision by the LGO.
9. The outcome of cases on which the LGO reached a view is as follows :-

Finding	No. of Cases
Closed after initial enquiries: no further action	3
Closed after initial enquiries: out of jurisdiction	3
Upheld: Maladministration Injustice	5
Upheld: Maladministration No Injustice	1

Closed after initial enquiries: no further action

10. The first of these complaints was for Children's Social Care and concerned the way a social worker handled contact arrangements and a statement made in 2013. The LGO decided there was no reason to investigate as a court had made decisions in relation to contact and the Council had apologised for failing to communicate with the complainant.
11. The second of these complaints was for Regulatory Services, from a lady who parked her car in a Council car park, lost her keys and was dissatisfied that the person answering the emergency number was unable to give her a guarantee she would not get a parking ticket. The lady also felt the person who answered the emergency number was unhelpful and unsympathetic. The LGO decided not to investigate as the Council had already provided a fair response.
12. The third of these complaints was for Environmental Services and concerned an individual's dissatisfaction with the Council not returning his bin to the correct place and the fact his neighbours were receiving an assisted collection which they were not entitled to. The LGO decided not to investigate the complaint as there was insufficient evidence of fault by the Council and because the complainant had not been caused an injustice justified an investigation.

Closed after initial enquiries: out of jurisdiction

13. The first of these complaints was for Highways Network Management and concerned an individual's dissatisfaction with the Council's view that we did not have a duty to maintain a path to a church. The LGO considered the matter outside her jurisdiction as the complainant has a right of redress in court.

14. The second of these complaints was also for Highways Network Management, from a resident who complained about an increase in the annual charge to park in a residents parking zone. Again the LGO considered the matter outside of her jurisdiction as the complainant has a remedy in court if he believes the Council has acted unlawfully.
15. The third of these complaints was for Children's Social Care and concerned the way the Council dealt with the complainant in relation to the care of her grandchild and about its refusal to consider parts of her complaint. The LGO found the investigation into the points of complaint the Council accepted to be fair, balanced, transparent, impartial and thorough. The LGO agreed that the Council was entitled to refuse to investigate the additional 23 points of complaint on the basis that they had all either been dealt with in court or took place too long ago.

Upheld: Maladministration Injustice

16. The first of these complaints was for Children's Social Care and concerned the Council's failure to implement the actions agreed following its own investigation of the complaint. The LGO upheld the complaint in respect of the three recommendations the Council failed to fully implement without good reason before the Ombudsman's involvement. The LGO completed her investigation on the basis that the Council agreed to provide a suitable remedy for the injustice caused.
17. The second of these complaints was for Adult Social Care and concerned the Council's failure to plan for the progression of the complainant's degenerative illness. As a result the complainant could not know if the Council would have agreed to fund a ground floor extension to his property to enable him and his wife to stay in their own home. The LGO determined there was evidence of fault by the Council. The Council agreed to remedy the injustice caused by way of an apology and a payment to the complainant. The Council also reviewed its procedures for assessing service users with degenerative illness to ensure they comply with Government guidance and agreed to ensure it keeps proper records of officers' and Disabled Facilities Grant (DFG) panel's consideration of DFG applications to ensure its decision making is transparent. This matter had initially been dealt with as an insurance claim. The LGO were critical of the length of time taken to reach a decision and requested the Council reviews its procedures for dealing with insurance claims to ensure such delays do not occur, particularly when the claimant has a life limiting condition. This matter has been raised with our insurers.
18. The third of these complaints was also for Adult Social Care and concerned a delay in processing a DFG and an inappropriate charge for the provision of the Lifeline service to meet an assessed social care need. The LGO found that the Council took 12 months longer than it should have to process the DFG and should not have charged the gentleman for the Lifeline service. The Council agreed to make a payment in line with the Ombudsman's published guidance on remedies for the injustice caused by the delay, refund the cost of the Lifeline service and provide it to the complainant without charge and review its charging policy for non-residential care. A revised policy has now been written and is awaiting public consultation.

19. The fourth of these complaints was for also Adult Social Care and concerned the Council's failure to properly assess an individual's care needs and provide his parents with a carer's assessment. The LGO determined that the Council had not assessed the complaints needs properly for a number of reasons. The Council apologised to the complainant and his parents and properly assess their needs. The Council also identified the training needs of officers relating to Autism and arranged training where appropriate in accordance with the Government guidance issued in March 2015.
20. The fifth of these complaints was for Children's Social Care and concerned the Council's failure to recognise that the four children they placed with the complainant, when their parents were unable to continue to care for them, were looked after children. As a result the Council did not pay the appropriate allowances. The LGO found the Council were at fault and ended her investigation on the basis the Council agreed to pay the allowances.

Upheld: Maladministration No Injustice

21. This complaint was for Regulatory Services and concerned the Council's failure to consult the complainant on his neighbour's planning application. While the LGO did find the Council were at fault, in that we did not adhere to our Statement of Community Involvement (SCI), they did not believe the outcome of the application would have been any different if he had the opportunity to comment.

Organisational Learning

22. Following the maladministration decision detailed in paragraph 16, the then Director of Children's Social Care agreed a more detailed set of reports should be provided to Heads of Service on a regular basis to enable them to identify non-compliance with the complaints procedure.
23. Following the maladministration decision detailed in paragraph 17, the Director of Adult Social Care confirmed that the management of the adult social care team accepted that there should have been better monitoring in place in this case and that, particularly when members of staff are off for prolonged periods, it is essential that managers ensure that there is adequate oversight of practice.
24. Following the maladministration decision detailed in paragraph 18, the Director of Adult Social Care confirmed that a thorough review of the policy relating to the disabled facilities grant has been carried out and Cabinet have agreed a new policy which includes robust decision making arrangements being put in place, clear documentation of records of decisions and their rationale, evidence to support the decision making process and this includes using current social care assessments. The Director has also initiated a piece of work to identify any other individuals who may have been incorrectly charged for the Lifeline service.
25. Following the maladministration decision detailed in paragraph 19, the Director of Adult Social Care confirmed the Council has taken a more robust approach to understanding the needs of those on the Autistic Spectrum and worked with individuals and groups of service users to complete a self-assessment against

nationally recognised standards. This has been reported to the Health and Well Being Board, where key actions for improvement have been agreed. With respect to this individual, whilst we accept that we made mistakes, it should also be noted that his relationship with his social worker and with our other support staff was maintained. He has recently written to staff to thank them for their support through the process and has clearly demonstrated that he believes that he is making good progress.

26. Following the maladministration decision detailed in paragraph 20, the then Director of Children's Social Care initiated a review of the Council's policy in relation to Connected Care. The Council has developed a flow chart for staff regarding their responsibilities under the policy; designed a set of leaflets for potential carers; reviewed the viability paperwork and arranged training for social workers in relation to the revised policy. The then Director of Children's Social Care also ensured the Council reviewed all open cases to ensure that the placement meets the legal requirements and the family understand the arrangement.

Outcome of Consultation

27. The issues contained within this report do not require formal consultation.