
REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

Responsible Cabinet Member - Councillor Bill Dixon, Leader

Responsible Director - Paul Wildsmith, Director of 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 report for the meeting of Cabinet on 04 December 2012.

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 are 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 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 of the five 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. Between 1 October 2012 and 31 March 2013, 10 cases were the subject of decision by the LGO. Only five of these were complaints previously considered by the Council in accordance with its complaints procedure(s) prior to the complainant referring the matter to the LGO. The various reasons for this are set out in the

summary of each complaint.

7. The outcome of cases on which the LGO reached a view is as follows :-

Finding	No. of Cases
Not to Initiate an Investigation	7
Not in Jurisdiction & Discretion Not Exercised	1
To Discontinue Investigation	2
<i>Premature Complaint*</i>	1

**N.B. While the LGO count 'Premature Complaints' as a complaint received against the Council they no longer count them as a complaint decision.*

Analysis of Findings

8. 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.
9. There were no common themes emerging from the complaints determined by the LGO during this period. Nor was there any organisational learning resulting from the complaints determined by the LGO during this period; as in all cases within their jurisdiction the LGO either decided not to initiate an investigation or to discontinued their investigation for the reasons set out in this report. Any organisational learning resulting from the preceding internal complaints investigation(s) is reported via the relevant annual complaints report. For further information visit:
www.darlington.gov.uk/complaints

Not to Initiate Investigation

10. The first of these complaints concerned the charge included in a Council tenant's rent for estate maintenance. The tenant was dissatisfied that work to her hedge had not been carried out and requested a refund of the amount charged for the works over a period of six years. The LGO decided not to initiate an investigation as there was insufficient evidence of any significant injustice arising from the Council's actions.
11. The second of these complaints concerned alleged errors made by the Council when selling a property under the right to buy scheme in 2003. Whilst the Council buyer is responsible for making appropriate checks when making a purchase; however, the Council had not resolved the matter as quickly as it could have. The Council apologised for this and offered the complainant a financial remedy for the time and trouble he had to take in pursuing the complaint. The LGO decided not to initiate an investigation on the basis that the Land Registry were involved and had resolved the ownership issue, that the complaint was out of the 12 month time limit and that with regard to the level of compensation offered the complainant had a legal remedy in a court of law.

12. The third of these complaints concerned an individual's dissatisfaction with an unfinished repair to the road outside his property and the maintenance of the gullies in his street. The Council cleaned the gullies and advised the complainant they intended to complete the road repair once the temperature was high enough to do so. As such the LGO concluded they could not see any grounds to investigate.
13. The fourth of these complaints concerned a description on a planning application. While the Council did respond to the matter it was not handled in accordance with the relevant complaints procedure and the complainant, dissatisfied with the response, referred the matter directly to the LGO. The LGO decided that while there was an administrative fault on the part of the Council this did not cause the complainant an injustice; as having reviewed the matter the Council did not consider the development to adversely affect the complainants amenity to such a degree that permission should have been refused.
14. The fifth of these complaints concerned an individual's assessment in relation to their adult social care provision. The Council investigated the complaint and agreed to ask an independent social worker to reassess the complainant's social care needs. The complainant remained unhappy with the Council's response and asked the Ombudsman to consider the complaint. As the Council had not completed the independent assessment fully, were awaiting information from medical professionals and had not reduced the complainant's care package, the LGO took the view there was insufficient injustice at that time to initiate an investigation.
15. The sixth of these complaints concerned highways and was made directly to the LGO. The complainant subsequently withdrew the complaint and did not want any details to be passed to the Council.
16. The seventh of these complaints concerned the Council's failure to deal with concerns raised by an individual about another horse owner occupying a plot of land she was renting from the Council. The LGO decided not to initiate an investigation as the Council had upheld the complaint and offered what the LGO considered to be a reasonable remedy for the problems the complainant suffered.

Not in Jurisdiction and Discretion Not Exercised

17. This complaint concerned a Court decision in relation to adoption. The LGO concluded they cannot investigate complaints about matters considered by a Court.

To Discontinue Investigation

18. The first of these complaints was initially dealt with by the Council as an insurance claim rather than a complaint, as the solicitor representing the individual advised that they were seeking financial compensation for the mental injury suffered and distress caused as a result of the Council's alleged failure to properly address a neighbour nuisance issue. The LGO discontinued their investigation on the grounds that they could not see any injustice to the complainant as a result of fault by the Council that requires a remedy. The insurance claim was unsuccessful.

19. The second of these complaints was made directly to the LGO and concerned an individual's dissatisfaction with the fact he had been issued a fixed penalty notice for not placing his waste out for collection at the front of his property. The LGO decided to discontinue their investigation on the basis that they had previously found no fault in the Council's decision to change the waste collection arrangements and having not complied with those arrangements the Council was entitled to issue the complainant with a fixed penalty notice.

Premature Complaint

20. While the LGO does count 'Premature Complaints' as a complaint received against the Council they no longer consider them a complaint decision. As such there is no summary of the outcome provided in this report. 'Premature Complaints' referred to the Council by the LGO are considered in accordance with the relevant Council complaints procedure. Details of the outcome of these complaints are provided in the relevant annual complaints report. For further information visit: www.darlington.gov.uk/complaints

Recommendation

21. It is not recommended that the authority needs to take any action as a result of the findings of the LGO other than as detailed in the report.

Outcome of Consultation

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