
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 12 June 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.

Lee Downey, Ext 2401

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. In the first half of 2012/13, 12 cases were the subject of decision by the LGO. Ten of these were complaints previously considered by the Council in accordance with its complaints procedure(s), one was an Education Appeal and one was a Premature 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	6
To Discontinue Investigation*	5
Premature Complaint**	1

* One of these decisions was in relation to an Education Appeal and not a complaint considered under the Council's complaints procedure(s).

**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 the LGO either discontinued their investigation or decided not to investigate on the basis that they felt the Council had already taken reasonable steps to remedy the complaint. 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 manner in which the Council had handled three complaints from the same individual. The LGO concluded that they would not normally investigate a complaint solely about a Council's complaint

handling unless the consequences for the complainant were significant. The LGO did not consider the Council's complaint handling to have caused the complainant sufficient injustice to warrant a formal investigation.

11. The second of these complaints concerned the Council's decision not to fell a tree at the request of a resident on the basis that it was overshadowing their property and allegedly causing damage to their drains. The LGO concluded that there was no obvious evidence of maladministration in the way the Council reached its decision and the complainant may have a legal remedy against the Council for the alleged damage to their property.
12. The third of these complaints concerned an individual's dissatisfaction with the Council's decision to restrict their access to a resident in a care home following a safeguarding investigation. The LGO was satisfied that the Council had followed the multi-agency policies and procedures to protect vulnerable adults; undertaken a thorough and comprehensive safeguarding investigation; adhered to the principles of the Mental Capacity Act 2005; and taken reasonable and proportionate action. In the absence of any evidence of maladministration, the LGO did not feel there were grounds to justify the public expense of their continued involvement in this complaint.
13. The fourth of these complaints concerned the Council's alleged failure to notify the complainant and their neighbours of a planning application for an extension to a nearby bungalow. While the LGO accepted the complainant and their neighbour were not informed, they did not consider the complainant's objections significant enough to have affected the planning decision. The LGO concluded the complainant's dissatisfaction was with the merits of the decision, rather than maladministration.
14. The fifth of these complaints concerned the Council's alleged failure to complete a financial assessment in respect of the complainant's spouse's home care for four years and the manner in which the assessment was eventually undertaken. The LGO concluded that the delay in completing a financial assessment was maladministration, however, there was no injustice caused. The LGO said that indeed it could be said that the complainant benefited from the Council's maladministration as they had not incurred an increase in contributions for four years. The LGO did not consider there to be any maladministration in relation to the way the assessment was eventually conducted and felt the Council's response to the complaint was adequate.
15. The sixth of these complaints was made by a parent on behalf of a looked after child. They alleged that the Independent Reviewing Officer was not fully independent of the Council; that the Independent Reviewing Officer does not communicate effectively or in a timely way and that the Council has unfairly stopped activity based contact sessions with the child. The LGO concluded that they were in the same position as the Council and as the child is deemed competent, any complaints should come from the child. In relation to the issue of contact the LGO concluded that this was a matter for the court and as such they could not consider the matter.

To Discontinue Investigation

16. The first of these complaints concerned the Council's decision to grant planning permission for a games pitch with associated floodlighting and car park on land adjacent to the complainant's property. The LGO concluded that there was evidence of maladministration in the way the planning application was publicised but no consequent injustice to the complainant as they had been written to regarding the application. They concluded that there was no evidence of maladministration in the decision to approve the pitch itself or the floodlights and as the Council has agreed to ensure the noise attenuation measures were implemented and maintained throughout the lifetime of the permission there were no grounds for the complaint to be pursued.
17. The second of these complaints concerned an Education Appeal. The LGO concluded that the Independent Appeal Panel correctly conducted the hearing that considered the appeal and as such they could not criticise the Panel's decision not to award a place to the complainant's child.
18. The third of these complaints was from a Council tenant who said that their home suffers from dampness in the winter months and that the heating system is inadequate. They also asked for double glazing to be installed. The LGO concluded that there is no evidence that the Council had failed to respond to repairs reported by the tenant and decided not to investigate the complaint further because there was insufficient evidence of maladministration on the Council's part.
19. The fourth of these complaints was from a parent regarding the fact the Council had assessed their child as not having the capacity to decide where they lived and whether or not they wanted to have contact with the parent. The LGO concluded that since making a first provisional view on the complaint the Council had assessed that the complainant's child as having capacity to decide whether they wanted to have contact with their parent and that they had decided they did not wish to have contact. As such the LGO took the view that the complainant was not a suitable representative to bring a complaint on their child's behalf.
20. The fifth of these complaints concerned a dispute over the date a Council tenancy was terminated and the charges applied by the Council for clearing and cleaning the property. The LGO concluded that there was no evidence of fault on the Council's part in respect of the clearing/cleaning charges and as the Council had resolved the dispute over the date the tenancy terminated when it approved the complainant's application for overlapping housing benefit they decided to discontinue their investigation into the complaint.

Premature Complaint

21. 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

Outcome of Consultation

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