
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 1 July 2014.

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.

Lee Downey, Complaints and Information Governance Manager
Extension 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. Between 1 April 2014 and 30 September 2014, 10 cases were the subject of decision by the LGO.
7. 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	4
Closed after initial enquiries: out of jurisdiction	2
Not upheld: no further action	1
Upheld: Maladministration and Injustice	3

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.

Closed after initial enquiries: no further action

9. The first of these complaints was about the Council's enforcement of a Council Tax debt, despite the probate on the estate not being completed. The LGO decided not to take any further action as the Council had offered to defer payment.
10. The second of these was about a fixed penalty notice, which the Council issued for leaving domestic refuse out on a non-collection day. The LGO decided not to take any further action because there was insufficient evidence of fault on the Council's part.
11. The third of these complaints was about the Council's maintenance regime for grass verges and the removal of stones from the verge outside the complainant's house. The complainant also raised their dissatisfaction with the handling of their complaint and associated freedom of information request. The LGO decided not to take any further action on the basis there was insufficient injustice to the complainant and it was unlikely they would find any fault on the Council's part. As they were not investigating the main complaint the LGO decided not to investigate how the Council dealt with the complaint. In relation to the freedom of information

request, the LGO advised the complainant that they should raise the matter with the Information Commissioner.

12. The fourth of these complaints concerned an individual's dissatisfaction with the Council's decision not to reduce the height of the trees to the rear of their property. Again, the LGO decided not to take any further action because there was insufficient evidence of fault on the Council's part.

Closed after initial enquiries: out of jurisdiction

13. The first of these complaints was from an individual who had bought their Council house and was dissatisfied having been sent an invoice for a contribution towards the cost of replacing the boundary fence; in accordance with the terms of the conveyance. The LGO decided not to investigate the complaint on the basis the matter was within the remit of the Housing Ombudsman. The Housing Ombudsman also advised that they would not investigate the complaint. Following the further involvement of the Complaints and Information Governance Manager the LGO wrote to the complainant to provide clarification. They advised that since 1 April 2013 when the responsibility for all complaints about council owned houses, other than right to buy, was transferred to the Housing Ombudsman Service owners adjacent to council properties effectively no longer had an Ombudsman service which could consider their complaints. The LGO went on to say that even if the complaint had been made prior to 1 April 2013 it would have been unlikely that they would have investigated the matter as it is essentially a dispute over a boundary obligation set out in a covenant, which is a legal matter and can only be determined by the courts.
14. The second of these complaints was from an individual who was dissatisfied with the way the Council dealt with an application for a job. The LGO advised that complaints about employment matters are not within their remit.

Not upheld: no further action

15. This complaint concerned the Council's alleged failure to properly assess an individual's long term needs when it provided disabled adaptations to their home. The complainant advised that as a result they had to move out of their privately owned home and into more suitable Council accommodation. The complaint said this caused financial loss, distress and psychological harm and claimed £18,000 in compensation from the Council. As such, the Council refused the complaint on the basis it would be more appropriately dealt as an insurance claim. The LGO decided not to take any further action provided the Council's insurers reached a decision within a reasonable timescale, which they did, concluding that the Council had not been negligent.

Upheld: Maladministration and Injustice

16. The first of these concerned the Council's failure to complete actions agreed following a previous complaint made to the LGO regarding the Council's failure to take action when an individual was forced off a plot of land they were renting from

the Council. The LGO decided not to initiate an investigation in relation to the initial complaint as the Council had upheld the complaint and offered what the LGO considered to be a reasonable remedy. The Council failed, however, to provide the complainant with a three monthly update as agreed, which the LGO upheld. The Council apologised and committed to do so in future, even if there is nothing new to say or if the complainant has had recent contact. The LGO considered this a proportionate action in response to the complaint.

17. The second of these related to the refuse collection service after the introduction of wheeled bins and the issuing of a section 46 notice (which explains where/when refuse should be placed out for collection), following a report from a neighbour about the complainant placing their wheeled bin on the footpath for collection. The LGO concluded that the Council had not treated the complainant fairly, given that it did not issue section 46 notices to all the other residents in the street who also left their wheeled bins on the footpath. To resolve the matter the Council accepted it had treat the complainant unfairly and apologised, paid the complainant £200 for the way it dealt with them and its partial responsibility for their refuse not being collected, cancelled the section 46 notice and wrote to all residents in the street asking them to place their bins out for collection at the edge of their property or where there is a grass verge adjacent to the footpath, on the verge provided it does not cause an obstruction.
18. The third of these concerned the Council's repeated failure to return a wheeled bin to the position it was left out for collection, blocking the complainant's driveway. As the complainant lived on a main road with a bus stop directly in front of their driveway this caused difficulties when they returned home. To resolve the matter the Council agreed its Head of Environmental Services would meet the complainant, apologise for the poor service and agree measures to ensure the service improves. The Council also agreed to remind all waste crews of the Council's policy to return emptied bins to the point from which they were collected, monitor compliance with this policy for two months and consider further action if the situation did not improve.

Recommendation

19. It is not recommended that the authority needs to take any action as a result of the findings of the LGO.

Outcome of Consultation

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