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**REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN**

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**Responsible Cabinet Member - Councillor Bill Dixon, Leader**

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

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**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 02 December 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 & Resources**

**Background Papers**

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

Lee Downey - Extension 5451

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. Between 1 October 2014 and 31 March 2015, 12 cases were the subject of decision by the LGO.
8. 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	6
Closed after initial enquiries: out of jurisdiction	5
Not upheld: no further action	1

### **Closed after initial enquiries: no further action**

9. The first of these complaints concerned a missed recycling collection and the Council's failure to respond to the complaint at Stage 1 of the Council's Corporate Complaints Procedure. In the Stage 2 response the Council explained to the complainant that our operatives cannot remove items from recycling that 'contaminate' the other items as to do this every time would mean they could not complete their rounds. The Council agreed that leaving a sticker alone does not help residents and told our operatives to ensure they write on the sticker what the issue is. The Council apologised for not doing this and for not providing a Stage 1 response to the complaint. The LGO closed the complaint after their initial enquiries as the issues complained about did not cause the complainant significant injustice to warrant further consideration of the matter.
  
10. The second of these complaints concerned the Council failing to undertake an individual's assisted refuse and recycling collections on a number of occasions. The Council assured the complainant that we had replaced the paper list system with electronic devices in the collection vehicles cabs which alert the crew to addresses which require an assisted collection. The Head of Environmental Services also visited the complainant and apologised for the service failure. The LGO closed the complaint after their initial enquiries as the Council had taken sufficient action to remedy its failure and the injustice caused.
  
11. The third of these complaints also concerned the Council failing to undertake an individual's assisted refuse and recycling collections on a number of occasions. It came to light during the course of the Stage 2 investigation that the reason this happened was that the address was not transferred from the existing list to the revised list on the introduction of Alternative Weekly Collections (AWC). The Council advised the complainant of the measures put in place to prevent a re-occurrence, apologised for the inconvenience caused but did not offer compensation as requested. The LGO concluded that while it was clear the complainant experienced inconvenience and frustration as a result of what happened the Council had resolved the problem and the inconvenience did not last for so long that a financial remedy was justified.
  
12. The fourth of these complaints was regarding a variety of issues that the Council had not had the opportunity to investigate at the time the complainant referred the matter to the LGO. The LGO concluded that they would not investigate this complaint as the Council was trying to help the complainant and there was nothing the LGO could achieve for the complainant at that time.

13. The fifth of these complaints was from an individual who received a letter from the Council at their home address for someone else. The Council explained this was as result of a typing error and confirmed we did not hold the complainants address for the intended recipient of the letter. The LGO concluded they would not investigate as there was nothing they could add and there was no significant remaining injustice to the complainant.
14. The sixth of these complaints was about inaccurate information provided by the Council at a planning appeal. The LGO decided not to investigate as it was not possible for them to say, on the balance of probabilities, that the alleged fault had caused the complainant a significant personal injustice and they could not achieve the substantive outcome the complainant was seeking.

### **Closed after initial enquiries: out of jurisdiction**

15. The first of these complaints was about the alleged failure of the Council to notify the complainant of an application to prune a tree. The complainant also complained of libel by the Council. The LGO decided not to investigate as the complaint about not being notified about the application to prune the tree was out of timescale and there was a legal remedy available in relation to the allegation of libel.
16. The second of these complaints was about a social worker who was in a relationship with the complainant's ex-partner. The complainant alleged the social worker was abusing their professional position to help the ex-partner depict the complainant as an unsuitable parent. The Council dealt with this matter in accordance with its employment procedures. The complainant was dissatisfied with this approach and referred the matter to the LGO. The LGO concluded they would not investigate this complaint about the Council's use of Personnel Procedures to deal with the complainant's concerns about the actions of a social worker employed by the Council as there was no evidence of fault by the Council.
17. The third of these complaints was about the Council's decision not to remove a tree which the complainant believed was causing damage to their property. The complainant stated that the tree has lost branches in storms in the past, that the tree causes blocked guttering from leaf fall and moss growth because of the loss of light. The complainant also stated that more recently the roots have started to lift her garden path and emerge in the lawn. The LGO concluded they would not investigate this complaint because it concerned liability for damage through negligence and it would be more appropriate for the complainant to make a claim via her insurers or the courts.
18. The fourth of these complaints concerned an individual's dissatisfaction with being issued a penalty charge notice (PCN). The Council did not investigate this complaint, in accordance with its Corporate Complaints Procedure, as the complainant had a right of appeal. The LGO decided not to investigate this complaint as it was outside of their jurisdiction.
19. The fifth of these complaints concerned an individual's dissatisfaction with a response to a Freedom of Information (FOI) request. The Council did not investigate this complaint, in accordance with its Corporate Complaints Procedure,

as the complainant had a right of appeal via the Information Commissioner's Office. The LGO concluded they would not investigate this complaint as the Council had referred the complainant to the Information Commissioner and there was no evidence of fault on the Council's part.

### **Not upheld: no further action**

20. This complaint was about the Council failing to cut the grass, pick litter and unblock the gully in the road, which the complainant contended led to their field flooding for several months per year. The LGO ended their investigation as there was not enough evidence to show the Council failed to cut grass, clear the litter or clear a blocked gully; or that the complainants had suffered a significant injustice. The LGO also concluded that the complainants claim for damages for flooding is more appropriately a matter for the courts.

### **Recommendation**

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

### **Outcome of Consultation**

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