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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 and 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) since the preparation of the previous report to Cabinet on 6 December 2016.

**Summary**

2. This report sets out in abbreviated form the decisions reached by the LGO since the last report to Cabinet and outlines actions taken as a result.

**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 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 there 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

### Background

5. Cabinet has previously resolved that they would consider reports on the outcome of cases referred to the LGO during the Municipal Year 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 is 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 condensed the number of categories they use when determining complaints, to align their findings more closely with those of local authorities. The Council's experience to date has been that some decisions that would not have previously been categorised as maladministration injustice now are. The Local Government LGO's office has confirmed that this is the picture nationally.

### Information

8. Between 1 October 2016 and 31 March 2017, 9 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	4
Closed after initial enquiries: out of jurisdiction	2
Not upheld: No maladministration	2
Upheld: Maladministration Injustice	1

### Closed after initial enquiries: no further action

10. The first of these was for Highway Asset Management and concerned an individual's dissatisfaction with the Council's decision not to remove a bollard from or harden the verge outside of their property. The LGO concluded they would not investigate the complaint as there was insufficient evidence of fault by the Council. In addition, they noted there was insufficient evidence that the complainant has been caused a significant injustice.
11. The second of these was for the Cemetery & Crematorium and concerned an individual's dissatisfaction with the Council's failure to carry out their late grandfather's wishes. The LGO decided not to investigate as they could not achieve anything significant by doing so and could not achieve the outcomes the complainant was seeking.

12. The third of these was for Arboriculture and concerned an individual's dissatisfaction with the Council's decision not to reduce the height of the trees behind their home. The LGO concluded there was no indication of fault by the Council.
13. The fourth of these was also for Arboriculture and concerned an individual's dissatisfaction with the Council's decision not to trim a tree outside their property. The LGO concluded there was no administrative fault in the way the Council applied its policy in this case.

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

14. The first of these was for Tenancy Enforcement. The LGO concluded they could not investigate the complaint about the Council's handling of a noise nuisance as the LGO cannot investigate complaints about the Council's management of its social housing.
15. The second of these was for Children's Services, Assessment & Safeguarding, Team D and concerned a welfare report requested by the Court (under Section 7 of the Children Act 1989). The Council advised the complainant that we could not investigate a complaint about the report and that the issues raised would be most appropriately dealt with in court. The LGO advised they could not investigate what happened at court.

#### **Not upheld: No maladministration**

17. The first of these was for Development Management and concerned an individual's dissatisfaction with the manner in which the Council notified them of their neighbour's planning application. The LGO concluded the Council properly considered the impact on the neighbouring properties even though it received no objections.
18. The second of these was for Financial Assessments and concerned an individual's dissatisfaction with the way in which the Council placed their mother in a care home and cost of the care. The LGO concluded the Council was not at fault for concluding the complainant's mother had capacity to decide to stay in a care home after being discharged from hospital, nor was it at fault in the way it advised the complaint of the charges.

#### **Upheld: Maladministration Injustice**

19. This complaint was for Highways Network Management and concerned an individual's dissatisfaction with the way in which the Council dealt with their application for a concessionary bus pass. The LGO concluded the Council failed to assess the complainant's mobility in accordance with the Department for Transport (DfT) Guidance and recommended a re-assessment. The Council updated its assessment process to ensure it complied with the DfT Guidance.

## **Analysis**

20. During 2016/17 the Council received a total of 17 LGO decisions compared to 24 in 2015/16. 9 related to corporate complaints, 7 to adult social care complaints and 1 to a children's social care complaint.
21. During 2016/17 the Council received a total of 6 Upheld: Maladministration Injustice decisions compared to 10 in 2015/16. While this was a decrease, this remains higher than in previous years and can in part be attributed to the changes outlined in paragraph 7.
22. Five of the Upheld: Maladministration Injustice decisions received related to adult social care complaints. The remaining decision related to the corporate complaint detailed in paragraph 19.
23. There were no themes running through those complaints considered by the LGO during 2016/17.

## **Outcome of Consultation**

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