

CABINET
15 SEPTEMBER 2020

REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

Responsible Cabinet Members

Councillor Charles Johnson – Deputy Leader and Resources

Responsible Directors

Paul Wildsmith, Managing Director
Suzanne Joyner, Director of Children and Adults Services
Ian Williams, Director of Economic Growth

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 and Social Care Ombudsman (LGSCO) and the Housing Ombudsman (HO) since the preparation of the previous report to Cabinet on 03 December 2019.

Summary

2. This report sets out the decisions reached by the LGSCO and the HO 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 LGSCO and the HO 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
Managing Director

Background Papers

Note: Correspondence with the LGSCO and HO 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 Wellbeing	This report is for information to members and requires no decision. Therefore there are no issues in relation to Health and Wellbeing.
Carbon Impact and Climate Change	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.
Impact on Looked After Children and Care Leavers	N/A

MAIN REPORT

Background

5. Cabinet has previously resolved that they would consider reports on the outcome of cases referred to the LGSCO and HO 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.

Information

7. Between 1 October 2019 and 31 March 2020, seven cases were the subject of decision by the LGSCO.
8. Between 1 October 2019 and 31 March 2020, 1 case was the subject of decision by the HO.
9. The outcome of cases on which the LGSCO reached a view is as follows:

LGSCO Findings	No. of Cases
Closed after initial enquiries: no further action	3
Closed after initial enquiries: out of jurisdiction	2
Upheld: Maladministration Injustice	2

10. The outcome of cases on which the HO reached a view is as follows:

HO Findings	No. of Cases
No Maladministration	1

Local Government and Social Care Ombudsman (LGSCO)

Closed after initial enquiries: no further action

11. The first of these concerned the issuing of a Community Protection Notice warning the complainant for burning fires in his back garden. The LGSCO decided they would not investigate the complaint because the Council had already lifted the warning after identifying errors in its actions, and further investigation by the LGSCO would be unlikely to achieve a meaningful outcome for the complainant.
12. The second of these concerned Adult Social Care and the Police. The LGSCO decided not to investigate because part of the complaint had been considered by them previously and they were unlikely to find fault with the Council in relation to the more recent event. Furthermore, they had no jurisdiction to investigate the Police.

13. The third of these concerned the Council's decision not to prune trees on its land close to the boundary of the complainant's property. The individual had previously complained to the LGSCO about the same issue in 2014. The LGSCO concluded they would not investigate the complaint because there was insufficient evidence of fault on the Council's part which would warrant an investigation.

Closed after initial enquiries: out of jurisdiction

14. The first of these concerned a Council owned tree on land to the rear of the complainant's property, which was allegedly causing damage to the complainant's patio and the concrete around their gate. The LGSCO concluded they would not investigate because there was insufficient evidence of fault by the Council and the complainant could go to court if their insurance claim was unsuccessful.
15. The second of these concerned the involvement of the Children's Services with the complainant's family. The LGSCO concluded they would not investigate as the complaint was late and they could not carry out a meaningful investigation.

Upheld: Maladministration Injustice

16. The first of these concerned the way the Council assessed an individual's financial contribution towards the cost of their adult social care services. The LGSCO found the Council was at fault in the way it made and communicated its decisions. To resolve the complaint the Council agreed that within four weeks of the decision it would reconsider whether, in all circumstances, the individual had intentionally deprived themselves of capital to avoid care and support charges, involving the individual in this process and fully explaining its decision. The Council also agreed that within eight weeks of the decision it would identify the action it needed to take to ensure officers keep better records, explain their decisions quickly and properly, and refer to the Guidance.
17. The second of these also concerned the way the Council assessed an individual's financial contribution towards the cost of their adult social care services. The LGSCO concluded the Council had not properly assessed disability related expenses that the complainant might have and this caused uncertainty for the complainant and his wife. To resolve the complaint the Council agreed to apologise, waive some charges and complete a further re-assessment, taking into account the LGSCO's findings. The Council also agreed to consider what lessons it could learn from the complaint, how it could improve the quality of the decisions it takes around disability related expenditure and the communication of those and write to the LGSCO setting out what action it intended to take to address the issues identified.

Housing Ombudsman (HO)

No Maladministration

18. This complaint concerned an alleged infestation of flies and the manner in which officers handled the matter. The HO concluded that in response to the complainant's reports of flies the Council inspected the property and took appropriate action and that officers acted appropriately and reasonably.

Analysis

19. During the second half of 2019/20 the Council received two Upheld: Maladministration Injustice decisions from the LGSCO, compared to four for the same period in 2018/19.
20. Both of the Upheld: Maladministration Injustice decisions related to financial assessments associated with the provision of adult social care services.
21. The actions identified to remedy the complaints should ensure there is not a re-occurrence.

Outcome of Consultation

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