

**CABINET
08 DECEMBER 2020**

REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

Responsible Cabinet Members

**Councillor Charles Johnson – Resources
Councillor Rachel Mills – Adults
Councillor Jon Clarke - Children and Young People
Councilor Kevin Nicholson - Health and Housing**

Responsible Directors

**Paul Wildsmith, Managing Director
James Stroyan, Interim Director of Children and Adults Services
Ian Williams, Director of Economic Growth and Neighbourhood Services**

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 15 September 2020.

Summary

2. This report sets out in abbreviated form 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.

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 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	This report has no impact on Looked After Children or Care Leavers

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 April 2020 and 30 September 2020, four cases were the subject of decision by the LGSCO.
8. Between 1 April 2020 and 30 September 2020, zero cases were 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
Upheld: Maladministration Injustice	1
Closed after initial enquiries: no further action	2
Upheld: not investigated - injustice remedied during Body in Jurisdiction's complaint process	1

Local Government and Social Care Ombudsman (LGSCO)

Upheld: Maladministration Injustice

10. This complaint concerned the Council wrongly treating the complainant's car as abandoned and towing it away. The complainant said they incurred costs to release the car. The Council refused to accept a complaint about the matter on the basis that, at the time, it understood the issue was a matter for the courts. The Council accepted its 7-day vehicle removal form contained errors making it invalid, and it should have investigated the complaint in line with its Corporate Complaints Procedure. The Council agreed to refund the complainant £318 in fees paid to release his car. It also agreed to pay the complainant £150 to recognise the frustration, uncertainty and time and trouble caused by its poor handling of the complaint.

Closed after initial enquiries: no further action

11. The first of these complaints concerned the Council allegedly not following the legal requirements when in 2019 it granted amendments to planning permission for development. The complainant argued the Council did not request a new planning application after they pointed out there might be landowners that had not been

properly notified of the development. The complainant argued this invalidated the planning application and the Council should not have considered the application. The complainant's view was based on information they had already complained to the Council about in 2018. The Council investigated their points in 2018 and presented its legal position with regards to land ownership based on affidavits it received. The complainant disagreed with the Council's legal position. The Ombudsman concluded they would not investigate the complaint as it was unlikely they would find fault in how the Council reached its decision and because there was no personal injustice to the complainant that would warrant their involvement.

12. The second of these complaints concerned two Council members allegedly pre-determining their vote on the Local Plan as they had recorded a video prior to the Council decision making meeting, giving their views on its approval. The Ombudsman decided not to investigate as it was unlikely they would find fault by the Council and the injustice to the complainant was not sufficient to warrant their involvement.

Upheld: not investigated - injustice remedied during Body in Jurisdiction's complaint process

13. This complaint concerned the Council not supporting an Adult Services, service user to set up a direct debit mandate in October 2018, when it completed a financial assessment, and a delay in sending out invoices. Following its own investigation the Council partly upheld the complaint, apologised for the distress caused by the delay in sending out the invoices, offered £500 to offset against the complainant's outstanding debt and offered to implement a repayment plan to recover the remaining debt. The Ombudsman was satisfied this remedied the injustice caused.

Analysis

14. During the first half of 2020/21 the Council received one Upheld: Maladministration Injustice decisions from the LGSCO, compared to four for the same period in 2019/20.
15. The organisational learning identified as a result of this complaint should ensure there is not a re-occurrence.

Outcome of Consultation

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