

**CABINET
3 DECEMBER 2019**

REVIEW OF OUTCOME OF COMPLAINTS MADE TO OMBUDSMAN

**Responsible Cabinet Members:-
Councillor Charles Johnson – Resources Portfolio
Councillor Rachel Mills – Adults Portfolio
Councillor Paul Crudass - Children and Young People Portfolio
Councilor Lorraine Tostevin - Health and Housing Portfolio**

**Responsible Directors :-
Paul Wildsmith, Managing Director
Suzanne Joyner, 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 10 September 2019.

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

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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 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 and Climate Change 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 proposal does not affect Looked After Children and 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 2019 and 30 September 2019, 11 cases were the subject of decision by the LGSCO.
8. Between 1 April 2019 and 30 September 2019, 0 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 |
|---|--------------|
| Closed after initial enquiries: no further action | 4 |
| Closed after initial enquiries: out of jurisdiction | 2 |
| Upheld: Maladministration Injustice | 4 |
| Not upheld: No Maladministration | 1 |

Local Government and Social Care Ombudsman (LGSCO)

Closed after initial enquiries: no further action

10. The first of these was for Children's Services, Safeguarding Team A. The LGSCO concluded they would not investigate the complaint that the Council made false allegations about the complainant and made a false report to the police as there was insufficient evidence of fault by the Council.
11. The second of these was for Customer Services Housing (Telephone). The complaint concerned the removal of the hash key option. The LGSCO would not investigate the complaint as further consideration of the complaint would not achieve any more for the complaint.
12. The third of these was for Anti-Social Behaviour & Civic Enforcement Operations. The complainant was dissatisfied with the Council's failure to take action over people in their street owning particular brands of car. The LGSCO would not investigate the complaint as there was no evidence of fault by the Council which would warrant an investigation.

13. The fourth of these was for Development Management. The complainant was dissatisfied with the Council's decision to grant planning permission for a neighbour's roof terrace and a subsequent lack of enforcement action. The LGSCO would not investigate the complaint because there is no evidence of fault by the Council.

Closed after initial enquiries: out of jurisdiction

14. The first of these was for Council Tax. The LGSCO concluded they could not investigate the complaint as it was about a council tax bill and the complainant could appeal to the Valuation Tribunal, therefore it was outside the LGSCO's legal remit.
15. The second of these was also for Council Tax. The LGSCO concluded they could not investigate a complaint about whether or not it was fair that when a house is converted into flats, each flat has a council tax liability. The LGSCO advised it is the Valuation Office Agency (VOA) rather than the Council that decides whether a property is entered on the valuation list and the LGSCO cannot investigate the VOA's decision.

Upheld: Maladministration Injustice

16. The first of these was for Safeguarding Adults. The complainant was dissatisfied the Council failed to take appropriate action in 2017 after they reported the alleged financial abuse of their father. The LGSCO found the Council were at fault for not conducting a full capacity assessment after the complainant reported the concerns. The LGSCO concluded the remedy the Council offered following an internal investigation of the complaint was suitable and did not recommend anything further.
17. The second of these was for Contracts & Quality and concerned the standard of care in a residential care home. The LGSCO found the Council was at fault for the Care Provider's failure to ensure its staff were familiar with the resident's care plan prior to them falling in the care home. The LGSCO was satisfied with the action the Council and the Care Provider had taken to remedy the injustice and improve the service following an internal investigation of the complaint. The LGSCO did not consider any further action was necessary. The LGSCO did find the Council at fault for delaying in investigating the complaint and recommended a payment of £100 to the complainant.
18. The third of these was for Highway Network Management. The LGSCO found the Council was at fault in its handling of the complainant's request for a disabled parking bay. The Council agreed to reconsider the request and undertake an Equalities Impact Assessment as part of the decision-making process.
19. The fourth of these was for the Financial Assessment Team. The LGSCO concluded the Council was at fault in the way it handled the complainant's care fees between 2014 and present. The LGSCO found the Council failed to carry out a financial assessment until 2018, leading to a large backdated invoice for care fees which caused distress. The Council was also at fault for the delay in invoicing for the care and for its poor complaint handling which caused further distress and frustration. The Council agreed to pay the complainant a total of £700 to acknowledge the distress, frustration and uncertainty caused. The Council also

agreed to arrange an appropriate payment plan for the complainant to pay the outstanding invoice.

Not upheld: No Maladministration

20. This complaint was for the Mental Capacity Act/Deprivation of Liberty Safeguards (MCA/DOLS) Team. The LGSCO found no fault in the actions of the Council when handling a safeguarding concern.

Analysis

21. During the first half of 2019/20 the Council received four Upheld: Maladministration Injustice decisions from the LGSCO, compared to six for the same period in 2018/19.
22. Three of the four Upheld: Maladministration Injustice decisions related to matters associated with the provision of adult social care services. The other Upheld: Maladministration Injustice decision related to highways.
23. There were no identifiable themes running through the complaints determined during the first half of 2019/20 and the actions identified to remedy the complaints should ensure there is not a re-occurrence.

Outcome of Consultation

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