

REPORT TO AUDIT & GOVERNANCE COMMITTEE

Date of Meeting: 6 December 2017

Report of: Corporate Manager (Executive Support)

Title: Local Government Ombudsman's Annual Review of Complaints 2016-17

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1. The report explains the role of the Local Government Ombudsman (LGO) in investigating and remedying complaints about councils. It also presents the LGO's annual review (2016-17) of complaints about Exeter City Council.

2. Recommendations:

- 2.1. That members note the report and highlight any issues with the complaints referred to in the LGO's annual review.

3. Reasons for the recommendation:

- 3.1. There is a legal duty to communicate to elected members the council's performance in relation to LGO investigations.

4. What are the resource implications including non-financial resources.

- 4.1. There are no resource implications.

5. Section 151 Officer comments:

There are no financial implications arising out of the report.

6. What are the legal aspects?

- 6.1. There is a duty under section 5(2) of the Local Government and Housing Act 1989 for the council's Monitoring Officer to prepare a formal report to the council where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration or service failure, and where the LGO has conducted an investigation in relation to the matter. This requirement applies to all Ombudsman complaint decisions, not just those that result in a public report. It is therefore a significant statutory duty that is triggered in most authorities every year following findings of fault by the LGO.

- 6.2. The LGO considers that this duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. This may be adequately addressed through an annual report on complaints to members.

- 6.3. Where an investigation has wider implications for council policy or exposes a more significant finding of maladministration, perhaps because of the scale of the fault or injustice, or the number of people affected, the LGO would expect the Monitoring Officer to consider whether the implications of that investigation should be individually reported to members.
- 6.4. In the unlikely event that an authority is minded not to comply with the LGO's recommendations following a finding of maladministration, she would always expect the Monitoring Officer to report this to members under section five of the Act. This is an exceptional and unusual course of action for any authority to take and should be considered at the highest tier of the authority.
- 6.5. The duties set out above in relation to the Local Government and Housing Act 1989 are in addition to, not instead of, the pre-existing duties placed on all authorities in relation to Ombudsman reports under The Local Government Act 1974. Under those provisions, whenever the LGO issues a formal, public report the council is obliged to lay that report before the council for consideration and respond within three months setting out the action taken, or proposed to be taken, in response to the report.

7. Monitoring Officer's comments:

Please see the Monitoring Officers' duty set out in paragraph 6 above.

8. Report details:

- 8.1. The Local Government Ombudsman (LGO) is a service that investigates complaints from the public about councils and some other bodies providing public services in England. The LGO investigates allegations of maladministration that have caused injustice to the complainant. Most council services can be investigated including some areas of housing, planning, council tax and housing benefit.
- 8.2. The LGO will usually only become involved after a council's complaints procedure has been exhausted. If the LGO finds the council acted with fault, which caused the person an injustice, it will recommend a remedy to put things right. The LGO's remedies are aimed at putting the person back in the position they would have been were it not for the fault. Where appropriate it also recommends action to avoid similar issues affecting other people - such as reviewing practice and procedure - and can recommend remedies for other persons affected by faults found in an individual complaint.
- 8.3. Details of the Exeter City Council complaints received and decisions made by the LGO for the year ending 31st March 2017 are set out below. This includes the number of cases where recommendations remedied the fault (one case) and the number of cases where the LGO decided the council had offered a satisfactory remedy during the local complaints process (nine cases). In these latter cases the LGO provides reassurance that the council had satisfactorily attempted to resolve the complaint before the person contacted the LGO. The LGO has not issued any formal public reports, as referred to in paragraphs 6.1 and 6.5 above.

Reference	Category	Decision Date	Decision	Remedy
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15014761	Planning & Development	28-Nov-16	Upheld	Financial Redress
15020217	Planning & Development	13-Apr-16	Closed after initial enquiries	Null
16004610	Highways & Transport	01-Jul-16	Referred back for local resolution	Null
16004792	Planning & Development	15-Aug-16	Closed after initial enquiries	Null
16007124	Planning & Development	19-Sep-16	Referred back for local resolution	Null
16008246	Housing	07-Sep-16	Referred back for local resolution	Null
16008977	Environmental Services	21-Sep-16	Referred back for local resolution	Null
16010248	Planning & Development	02-Nov-16	Closed after initial enquiries	Null
16014442	Corporate & Other Services	01-Feb-17	Referred back for local resolution	Null
16019376	Planning & Development	29-Mar-17	Referred back for local resolution	Null

8.4. Details of the LGO's findings on the one case that was upheld (Ref 15014761) are attached at Annex A. Planning officers have emphasised that this was a unique case in which the developer, their architect and the council's case officer had not recognised that a log cabin on an adjoining site was a separate 'residential' dwelling rather than a 'garden room' or similar. Mitigation has been put in place with planning officers required to highlight the potential separate occupation of large garden buildings.

9. How does the decision contribute to the Council's Corporate Plan?

9.1. Effective handling of complaints and following due process are facets of a well-run council.

10. What risks are there and how can they be reduced?

10.1. An effective complaint handling process is important for identifying service improvements. The current process is currently being reviewed to identify areas for improvement.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

11.1. There is no negative impact.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

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