

REPORT TO AUDIT & GOVERNANCE COMMITTEE

Date of Meeting: 4 December 2019

Report of: Corporate Manager (Executive Support)

Title: Local Government Ombudsman's Annual Review of Complaints 2018-19

Is this a Key Decision?

No

Is this an Executive or Council Function?

No

1. What is the report about?

- 1.1. The report explains the role of the Local Government & Social Care Ombudsman (LGO) in investigating and remedying complaints about councils. It also presents the LGO's annual review of complaints about Exeter City Council for the year ending 31 March 2019.

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:

- 5.1. There was a small financial loss to the Council arising out of the one upheld claim.

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:

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

8. Report details:

- 8.1. The 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 2019 are set out below. 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	Decision Reason	Remedy
18000273	Housing	06 Apr 2018	Insufficient information to proceed and client advised	Incomplete/Invalid	Null
18002761	Benefits & Tax	26 Jun 2018	Referred to tribunal with correct jurisdiction	Closed after initial enquiries	Null
17008748	Planning & Development	12 Jul 2018	No maladministration	Not Upheld	Null
18005865	Planning & Development	28 Aug 2018	Appeal to Minister required not Ombudsman	Closed after initial enquiries	Null
18008270	Planning & Development	28 Aug 2018	Premature Decision - advice given	Referred back for local resolution	Null
18008568	Planning & Development	03 Sep 2018	Premature Decision - advice given	Referred back for local resolution	Null
18009125	Highways & Transport	12 Sep 2018	Premature Decision - advice given	Referred back for local resolution	Null
18006822	Housing	18 Dec 2018	Maladministration and injustice	Upheld	Financial redress: Avoidable distress/time and trouble
18014560	Adult Care Services	20 Dec 2018	Premature Decision - advice given	Referred back for local resolution	Null
18015019	Planning & Development	18 Mar 2019	Insufficient information to proceed and client advised	Incomplete/Invalid	Null

- 8.4. Details of the LGO's findings on the one case that was upheld (Ref 18006822) are attached at Annex A. In summary, Mr and Mrs X complained that the Council unreasonably delayed the completion of their 'right to buy' application. The ombudsman found that there was fault by the Council that warranted a remedy (payment of £350) to reflect the additional time and trouble Mr and Mrs X spent pursuing the application and their complaints. Before the involvement of the Ombudsman the council had acknowledged that there had been an unreasonable delay in completing the sale and had offered to pay the complainant's reasonable costs. There is now wider awareness of the procedures for dealing with solar panels in relevant sales of Right to Buy properties.

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. No risks identified.

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.

**Bruce Luxton
Corporate Manager (Executive Support)**

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

Background papers used in compiling this report:-

None