

REPORT TO AUDIT & GOVERNANCE COMMITTEE

Date of Meeting: 29th September 2021

Report of: Corporate Manager (Executive Support)

Title: Local Government Ombudsman's Annual Review of Complaints 2020-21

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 2021.

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. The financial implication arising from the complaints are relatively small. Therefore there is nothing significant, from a financial point of view, for Council to consider.

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 (Audit and Governance Committee) on all Ombudsman complaint decisions.
- 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, hence this report.
- 6.3. On rare occasions, the LGO can also issue a '*Formal Public Report*' if a local authority, or any part of it:

- has acted or is likely to act in such a manner as to constitute maladministration or service failure perhaps because of the scale of the fault or injustice, or the number of people affected
 - and where the LGO has conducted an investigation in relation to the matter
- 6.4. Under the provisions of The Local Government Act 1974, 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. The LGO has not issued any Formal Public Reports in relation to Exeter City Council.
- 6.5. In the unlikely event that an authority is minded not to comply with the LGO's recommendations following a finding of maladministration, he 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.

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 investigates complaints from the public about councils and some other bodies providing public services in England. The LGO investigates alleged or apparent maladministration or service failure that have caused injustice to the complainant. Most council services can be investigated including planning, council tax and housing benefit and some areas of housing. Maladministration in broad terms might include:
- flaws in policies or decision making
 - poor administrative practice
 - failure to adhere to or consider properly statutory guidelines
 - failing to consider properly the exceptional circumstances of an individual or a situation
 - not properly considering statutory powers or duties
 - failing to give an adequate service
- 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 complaints received by the LGO about Exeter City Council, and the decisions made by the LGO on those complaints, for the year ending 31st March 2021 are set out Annex A. Members will note that complaints were upheld in two cases. A copy of the LGO's final reports on each complaint are attached at Annex B.

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. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs;
- and foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because:

11.4.1 The report does not set policy and there is no negative impact.

12. Carbon Footprint (Environmental) Implications:

12.1 Not applicable

13. Are there any other options?

13.1 Not applicable.

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

Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:-

None

ANNEX A

Reference	Category	Decided	Decision	Decision Reason	Remedy	Service improvement recommendations
19014539	Environmental Services & Public Protection & Regulation	01 Feb 2021	Upheld	Maladministration and injustice	Apology and financial redress for avoidable distress/time and trouble.	None
19018752	Planning & Development	30 Oct 2020	Upheld	Maladministration and injustice. No further action as already remedied	None	None
19015113	Housing	11 Aug 2020	Incomplete/Invalid	Insufficient information provided by customer to proceed	None	None
19016398	Planning & Development	30 Nov 2020	Not Upheld	No maladministration	None	None
20003670	Planning & Development	02 Oct 2020	Closed after initial enquiries	Out of time - not made in 12 months	None	None
20005602	Environmental Services & Public Protection & Regulation	30 Sep 2020	Incomplete/Invalid	Insufficient information provided by customer to proceed	None	None
20006428	Housing	14 Oct 2020	Referred back to council for local resolution	Premature decision - advice given	None	None
20007394	Corporate & Other Services	23 Nov 2020	Advice given	Previously considered and decided	None	None
20009282	Housing	12 Feb 2021	Closed after initial enquiries	Out of time - not made in 12 months	None	None
20014237	Housing	25 Mar 2021	Incomplete/Invalid	Insufficient information to proceed and PA advised	None	None