

**4 March 2020****Agenda Item: 4****REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE  
AND EMPLOYEES****LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS  
NOVEMBER TO DECEMBER 2019****Purpose of the Report**

1. To inform the Committee about Local Government & Social Care Ombudsman's (LGSCO) decisions relating to the Council since the last report to Committee on 22<sup>nd</sup> January 2020.

**Information**

2. Members have asked to see the outcome of Ombudsman investigations regularly and promptly after the decision notice has been received. This report therefore gives details of all the decisions received since the last report up to 20<sup>th</sup> January 2020.
3. The LGSCO provides a free, independent and impartial service to members of the public. It looks at complaints about Councils and other organisations. It only looks at complaints when they have first been considered by the Council and the complainant remains dissatisfied. The LGSCO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the Ombudsman finds that something has gone wrong, such as poor service, a service failure, delay or bad advice and that a person has suffered as a result, the LGSCO aims to get the Council to put it right by recommending a suitable remedy.
4. The LGSCO publishes its decisions on its website ([www.lgo.org.uk/](http://www.lgo.org.uk/)). The decisions are anonymous, but the website can be searched by Council name or subject area.
5. A total of seven decisions relating to the actions of this Council have been made by the Ombudsman in this period. Appendix A is a summary table of the decisions made in each case, for ease of reference and Appendix B to this report provides the details of each decision.
6. Following initial enquires into one complaint about the Council's decision to refuse a Blue Car Badge application, the Ombudsman decided not to continue with any further investigation as there was no evidence of fault on the Council's part. (Appendix B, page 35).
7. Full investigations were undertaken into six complaints. Appendix A provides a summary of the outcome of each investigation. Where fault was found, the table shows the reasons for the failures and the recommendations made. Where a financial recommendation was made,

the amounts paid, reimbursed or waived are listed separately. (Reference and page numbers refer to the information in Appendix B).

8. During the period the Ombudsman has issued a Public Report. The report is the first document in Appendix B (P1-13). Members will note that the Council received the decision on 6<sup>th</sup> November 2019, however the Ombudsman confirmed that they were bound by the pre-election period rules which meant they were unable to publish the report at that time or give a firm date until after the outcome of the election. As the report was not published until the 22<sup>nd</sup> January, it was not included in the previous report to this Committee as the Council was under an embargo regarding its publication until that date.
9. The investigation concerned an adults' social care complaint from the parents of an adult service user. They complained that the Council had reduced their son's personal budget without a full assessment and consideration of his needs and that the decisions made by the department were financially motivated. Several failings were found as outlined on page 10 of the report, paragraphs 60-75. The department accepted the investigator's findings and recommendations, and these are in the process of being implemented as summarised in Appendix A page 1. In addition to letters of apology, financial remedies have been offered. A payment of £1000 was made to the service user for distress and the failure to assess his needs and provide adequate support. A further £1000 payment was sent to the complainants to acknowledge the Council's failure to provide allocated respite funds. In addition, £2,050.62 has been reimbursed to account for the top-up payments made towards the service user's care. A total of £4,050.62 was paid from the adult social care budget as financial remedies. The Council was also required to publicise the report in the local press and make it available for inspection.
10. Two further adult social care investigations found fault in both cases. One complaint related to the process followed by the Council to seek repayment of a direct payment from a service user. The failures identified were that the department had not carried out regular annual care reviews between 2012-2016 nor raised any concerns with the complainant about her management of the direct payment during this period. The adult social care department accepted the findings and recommendations and after further consideration of these agreed to apply a waiver to the full outstanding debt of £52,343.67.
11. The second complaint concerned the review of a service user's care and support plan, how the Council calculated the complainant's disability related expenditure and the amount he was being asked to contribute towards his care. The investigator found some fault based on the lack of detailed recording of contemporaneous records by the worker about the discussions, explanation and advice given during the contact. No fault was found in the Council's decision to charge the service user for his support package or to refuse to offer any further waivers to his contribution. (Ref:18011349, page 37)
12. No fault was found in two adult social care complaints. One case was a joint investigation with the Parliamentary and Health Service Ombudsman about the care and treatment provided to a service user with mental health problems. (Ref: 19006727 page 21). The second complaint was about the outcome of a service user's financial assessment. (Ref: 19003401, page 46).

13. One corporate complaint investigation involved the process followed by the independent school admission appeal panel. Fault was found in that the appeal panel did not provide sufficient reasons for its decision to refuse the appeal. The Council accepted the recommendation to arrange a fresh appeal. (Ref: 19006744, page 14)

## **Statutory and Policy Implications**

14. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **Data Protection and Information Governance**

15. The decisions attached are anonymised and will be publicly available on the Ombudsman's website.

## **Financial Implications**

16. Paragraphs 10 and 11 show that a total of £4,050.62 was paid out in one case and a waiver of £52,343.67 was applied in a second case from the adult social care budget.

## **Implications for Service Users**

17. All of the complaints were made to the Ombudsman by service users, who have the right to approach the LGSCO once they have been through the Council's own complaint process.

## **RECOMMENDATION/S**

That members consider whether there are any actions they require in relation to the issues contained within the report.

**Marjorie Toward**

**Monitoring Officer and Service Director – Customers, Governance and Employees**

**For any enquiries about this report please contact:**

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## **Constitutional Comments (HD (Standing))**

Governance & Ethics Committee is the appropriate body to consider the content of this report. If the Committee resolves that any actions are required, it must be satisfied that such actions are within the Committee's terms of reference.

## **Financial Comments (SES 24/01/2020)**

The financial implications are set out in paragraph 16 of the report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

### **Electoral Division(s) and Member(s) Affected**

- All