

4 January 2023**Agenda Item: 4****REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE
AND EMPLOYEES****LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN DECISIONS
OCTOBER 2022 TO NOVEMBER 2022****Purpose of the Report**

1. To inform the Committee about Local Government and Social Care Ombudsman's (LGSCO) decisions relating to the Council since the last report to Committee was completed and any decisions after 28th October 2022.

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 to this Committee which was held on 30th November 2022.
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/). The decisions are anonymous, but the website can be searched by Council name or subject area.
5. A total of twelve decisions relating to the actions of this Council have been made by the Ombudsman in this period. Appendix A to this report summarises the decisions made in each case for ease of reference and Appendix B provides the full details of each decision.
6. Following initial enquiries into eight cases, the LGSCO decided not to continue with any further investigation for the reasons given in Appendix A

7. Full investigations were undertaken into four complaints. Appendix A provides a summary of the outcomes of the investigations. Where fault was found, the table shows the reasons for the failures and the recommendations made. If a financial remedy was made the total amount paid or reimbursed is listed separately.
8. There were four complaints where fault was found. The first one is an Adults complaint where Mrs X complained about Mr Y's needs assessments and mental capacity assessment. Also, the care packages and charges for care. Fault was not found in the decision regarding Mr Y not being able to manage his own finances, but the fact that there is no record of the decision, as well as the fact that the assessment of need does not offer a clear rationale as to why this level of care was required. The Ombudsman recommended the Council review its training in these areas and ensure Mr Y did not pay for two care workers. The Council has agreed to all the recommendations of the LGO and is implementing these, as well as carrying out additional training. The issues raised to the LGO could potentially have been resolved without recourse to this, therefore there is work underway to review the Adults complaints process to ensure that there is an extra check on those that remain unresolved at the second stage.
9. The second one is in Place. The complaint is about the payments Mrs M received to transport her daughter, G, to school. The Council has agreed an additional payment so Mrs M receives the equivalent of its new and improved 'disabled travel assistance payment' from its introduction. This is £2942.05. The fault by the Council in the view of the Ombudsman was the introduction of DTAP, an improved transport offer for disabled children, without taking adequate steps to ensure all those who were eligible, and would be better off, transferred from previous transport allowances. It would appear the Ombudsman has not understood the difference between the DTAP and Grant. The Grant is simply a calculation of mileage x 22.6p paid in arrears for the number of days attendance. The DTAP is only available to eligible pupils who also have an EHCP. This enables them to make their own home to school travel arrangements and provides families more flexibility with their travel arrangements. The amount of money a family would receive for mileage would be based on the distance between the family home and the young person's school and would be paid at 45p a mile based on two return journeys each day. If a young person has been assessed as requiring an escort to support them when they travel the DTAP would also include a payment for the escort. This includes the purchase of travel related goods and services. The DTAP is a signed legal contract between the Parent / Carer and NCC with strict rules on how/what and when the money can be used. The Ombudsman appears to ignore this contract which we believe is wrong and outside of the LGO remit which should be to review whether we have correctly followed our Policy and procedures.
10. The third complaint is in Adults. This was a complaint that the County Council has failed to ensure that the adapted kitchen for Miss B in her District Council tenancy met her needs and would be accessible by her; and communicate with her properly about this. Miss B says that as a result of the Council's failings she has been unable to properly access or use her kitchen for some time. There was no fault in how the County Council worked with the housing authority to get Miss B's kitchen adapted. The Ombudsman did state however that it is not clear that the County Council properly considered its power to intervene when problems with the work were not corrected for many months. The Ombudsman has not recommended the Council take action to remedy this, because, given the circumstances, it is unlikely it would have decided to intervene.

11. The fourth complaint is in Place. The complaint is about the Council failing to determine definitive map modification applications in a timely way which may adversely affect the available evidence and has caused Mr C unnecessary time and trouble. This complaint from Mr C is with reference to a recent decision by the Ombudsman which found the Council at fault for failing to determine public rights of way (RoW) Definitive Map Modification Orders (DMMOs - claims for footpaths, bridleways and byways) in a timely way and failing to comply with directions by the Planning Inspectorate within a specific timescale. As part of legislation, Defra had introduced a 'cap' to claiming public rights of way based on old historical documents and maps by 2026. Defra encouraged user groups and members of the public to make claims for RoWs throughout England and Wales. As a result of this, authorities were inundated with applications over a very short period of time. No extra funding was provided for this change in legislation. This legislation has now been abolished, however, the authorities and the Planning Inspectorate (who are also dealing with a large backlog) still have to process the applications. The Ombudsman has stated that the Council has to arrange a meeting with Mr C to discuss ways of working with landowners to deal with their objections to claims, complete a review of the DMMO process, report the findings to the Council and provide an update to the Council every six months for the next two years.

Statutory and Policy Implications

12. 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

13. The decisions attached are anonymised and are publicly available on the Ombudsman's website.

Financial Implications

14. The details of the financial payments are set out in Appendix A. £2942.05 will come from the Place department's budget.

Implications for Service Users

15. All 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

16. That members note the findings of the Local Government and Social Care Ombudsman and welcome the lessons learned and actions taken in response to the findings

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))

17. Governance and 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 08/11/2022)

18. The financial implications are set out in paragraph 14 of the report.

19. The details of the financial payments are set out in Appendix A. £2,492.05 will be funded from Place Department budgetary provision.

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