

Audit & Governance Committee

Date of Meeting: 30 May 2019

Report Title: Maladministration Decision Notices from Local Government and Social Care Ombudsman – December 2018 – February 2019

Senior Officer: Catherine Parkinson – Interim Director Governance and Compliance

1. Report Summary

1.1. This report provides an update on the Decision Notices issued by the Local Government and Social Care Ombudsman (LGSCO) when his investigations have found maladministration causing injustice to complainants. This report details the decisions made between 1st December 2018 and 28th February 2019. There were 3 decisions in which the LGSCO found that there was maladministration causing injustice; the relevant departments have taken the recommended actions and learned lessons from the investigation outcomes. It is not possible to report on any Decision Notices issued from March 2019 onwards, as the LGSCO imposes a three month reporting embargo. Any decisions received after 28th February 2019 will be reported at a subsequent Audit & Governance meeting.

2. Recommendation

2.1. That the Committee notes the contents of this report and makes any further response it considers appropriate.

3. Reasons for Recommendation

3.1. The Terms of Reference for the Audit & Governance Committee include seeking assurance that customer complaint arrangements are robust and that recommendations agreed with the LGSCO are being implemented.

4. Other Options Considered

4.1. This is not applicable.

5. Background

- 5.1. The Local Government Act 1974 established the Local Government and Social Care Ombudsman (LGSCO). It empowers the Ombudsman to investigate complaints against councils and adult social care providers and to provide advice and guidance on good administrative practice. Once a complainant has exhausted the Council's Complaints procedure, their next recourse, should they remain dissatisfied with the Council's response, is to contact the LGSCO.
- 5.2. The LGSCO will assess the merits of each case escalated to them and seek clarification from the Council as necessary before making the decision to investigate a complaint. Once the LGSCO decides to investigate, they will try to ascertain if maladministration has occurred and whether or not there has been any resulting injustice to the complainant as a result of the maladministration.
- 5.3. In instances where maladministration and injustice is found, the LGSCO will make non-legally binding recommendations which they consider to be appropriate and reasonable. Although not legally binding, refusal to accept the LGSCO's recommendation will trigger a Public Report.
- 5.4. A Public Report is a detailed account of the complaint, outlining the failures by the Council in this particular investigation; this can have a significant damaging effect on the Council's reputation.
- 5.5. During the period between 1st December 2018 and 28th February 2019 the Council received three Decision Notices in which the LGSCO have concluded that there has been maladministration causing injustice. The details can be found in Appendix 1.
- 5.6. Licensing complaint - In light of the LGSCO's decision the Licensing Team has taken steps to change the application forms and procedure in relation to the transfer of vehicles. Additionally, the Team is in the process of reviewing the Council's Taxi Licensing Policy. (This is subject to the issuing of statutory guidance by central Government, the draft of which has only recently been consulted upon.) The parts of the draft policy relating to this issue will be revisited and clearer information on the process and types of information acceptable as part of the application process will be given.
- 5.7. Planning complaint – In addition to completing the recommendations to review the Certificate of Lawful Existing Use of Land (CLUED) and issuing an apology, the Planning department have reviewed the working practices with the Legal Services team so that, when Legal input is required, the advice is shared in a more timely manner.

5.8. Waste and recycling complaint - The Waste & Recycling department have issued an apology and put measures in place to ensure that better records are kept when the collections for an individual are being monitored.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. There are no legal implications flowing directly from the content of this report.

6.2. Financial Implications

6.2.1. If fault causing injustice is found, the Council can be asked to pay compensation to a complainant, the level of which is determined on a case by case basis. The cost of such compensation is paid for by the service at fault. In the period being reported, the Council was required to make compensation payments totalling £500.

6.3. Policy Implications

6.3.1. Adherence to the recommendations of the LGSCO is key to ensuring that customers have objective and effective recourse should they be unhappy with the way in which the Council has responded to their complaint.

6.4. Equality Implications

6.4.1. There are no equality implications flowing directly from the content of this report.

6.5. Human Resources Implications

6.5.1. There are no HR implications flowing directly from the content of this report.

6.6. Risk Management Implications

6.6.1. There are no risk management Implications.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are no direct implications for children and young people.

6.9. Public Health Implications

6.9.1. There are no direct implications for public health.

7. Ward Members Affected

7.1. There are no direct implications for Ward Members.

8. Access to Information

8.1. Please see Appendix 1.

9. Contact Information

9.1. Any questions relating to this report should be directed to the following officer:

Name: Juan Turner

Job Title: Compliance and Customer Relations Officer

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**Appendix 1 - LGSCO Decisions where maladministration with injustice has taken place
2018 – February 2019**

December

Service	Summary and Ombudsman's Final Decision	Agreed Action	Link to LGSCO Report	Action Taken	Lessons Learnt
Licensing	<p>Mr A, Ms B and Mr C all complained that the Council refused to renew the licence in the names of Mr A and Ms B as joint proprietors.</p> <p>The Council asked Mr A for further evidence to show Ms B was a joint proprietor, but did not make it clear what evidence it needed which was fault. The Council also failed to offer Mr A a right of appeal to the taxi licensing committee. The Council eventually issued a licence in the name of Mr A only. However, the delay caused distress and uncertainty and meant Mr A could not work for 25 days.</p> <p>The Council has agreed to apologise to the complainants, and pay Mr A £500 to recognise the loss of employment opportunity.</p>	<p>The Council agreed within one month of the final decision to pay Mr A £500 in recognition of the loss of employment opportunity between November 2017 and December 2017 and the distress caused.</p> <p>It will also write to the complainant explaining what information or type of evidence is required in consideration of a joint proprietor application and re-consider the joint proprietors application. In addition, it will update the 'Hackney carriage vehicle licence' application forms.</p> <p>The Council agreed within three months of the final decision to update its</p>	<p>The Decision Notice is not currently available on the LGSCO website.</p>	<p>The Licensing Team has made changes to the application forms and has updated its procedures.</p> <p>It has also issued an apology letter with the information detailed by the LGSCO along with the £500 payment.</p> <p>Additionally, the Team is in the process of reviewing its Taxi Licensing Policy.</p>	<p>The need for regularly reviewing and keeping documentation up to date.</p>

		procedures to clearly define its rules on who can be included on a taxi licence as a proprietor.			
Planning	The Council granted a certificate of lawful existing use of land (CLEUD) without taking account of the representations made by the complainant. There was unreasonable delay by the Council in responding to the complainant's concerns. It should apologise to the complainant for the delay and issue a detailed response to the concerns raised.	The Council is to conclude the review within 4 weeks of the date of the Ombudsman's final decision, taking into account the information received, and give a reasoned response to the decision the Council makes on the CLEUD. In addition, the Council is to apologise to the complainant for the delay.	The Decision Notice is not being published by the LGSCO.	The Planning Team have concluded their review and issued the apology to the complainant. The Planning department are also reviewing the working practices with the Legal Services team so that, when Legal input is required, the advice is shared in a more timely manner.	The need for timelier communication between the Planning and Legal department.
Waste & Recycling	The Ombudsman found fault by the Council as it failed to ensure its contractor emptied the waste and recycling bins of the complainant on at least five occasions in the early part of 2018. The Council acted to monitor the situation but failed to show it had done so properly. Record keeping was poor. Another 4 collections later in the year were missed but	The Council will send a written apology for the missed collections identified, the failure to keep proper records and the failure to show it carried out proper monitoring. It should remind crews of the need to make records which contain details showing problems; it should also	https://www.lgo.org.uk/decisions/environment-and-regulation/refuse-and-recycling/18-010-792	The Waste & Recycling department have issued an apology to the complainant. It has also continued to monitor the complainant's collections for the period outlined.	The need to ensure that appropriate records are kept to evidence the action taken by the service.

	these were not the Council's fault. The agreed action remedies the injustice caused.	continue to monitor the collections of the complainant for a further 2 months from the date of the Ombudsman's decision, ensuring proper records are kept.			
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