

Audit and Governance Committee

Date of Meeting:	29 September 2022
Report Title:	Maladministration Decision Notices from Local Government and Social Care Ombudsman – April to July 2022
Report of:	Alex Thompson
Report Reference No:	AG/21/21- 22
Ward(s) Affected:	ALL

1. Purpose of Report

- 1.1. This report provides an update on the Decision Notices issued by the Local Government and Social Care Ombudsman “the Ombudsman” when his investigations have found maladministration causing injustice to complainants.
- 1.2. The report also makes recommendations for the future frequency and content of reports to Audit & Governance committee and to other relevant service committees. The aim of these proposals is to provide members with more comprehensive information and analysis of complaints and of the improvements undertaken by services to remedy issues identified.

2. Executive Summary

- 2.1. This report details the decisions made between 30th March 2022 and 31st July 2022 and the actions of the responsible services to address the cause of the complaints and lessons learned. The Ombudsman imposes a 6-week reporting embargo on Decision Notices so we cannot report on any issued from the beginning of August 2022 onwards. Any decisions received after 1st August 2022 will be reported at a subsequent Audit & Governance Committee meeting.

- 2.2.** During the period between 30th March 2022 to 31st July 2022 the Council received two Decision Notices in which the Ombudsman has concluded that there has been maladministration (Fault) causing injustice. The complaints were made by two different complainants but relate to the same substantive issue and were therefore investigated together by the same investigator. The details of these cases can be found in Appendix 1.
- 2.3.** This report also recommends a change to the frequency of reports to Audit and Governance to a 6 monthly cycle. Reports would continue to advise of all maladministration notices but also provide a more comprehensive view of all complaints, an analysis of lessons learned and details of the actions and improvements undertaken by Services. The format of the reports would be similar to that of the Annual report submitted to Audit and Governance Committee on 28th July 2022 and would be shared with the Chairpersons of the Service Committees. If any matters of serious maladministration were recorded then a conversation would take place with the Chair of the Committee as to whether additional reporting may be required.

3. Recommendations

- 3.1.** That the Committee
- 3.1.1. Notes the content of the report and acknowledges the Council's compliance with the Corporate Complaints Policy, and with the recommendations of the Ombudsman.
 - 3.1.2. Agrees that this report be provided to the Chair of each Service Committee.
 - 3.1.3. That the committee agrees to a move to a 6 monthly report of Upheld Ombudsman Decisions, thereby allowing more time for analysis and provision of context for the complaints.

4. Reasons for Recommendations

- 4.1.** To ensure that the Committee is kept informed, at appropriate intervals, of the Ombudsman's findings and to provide assurance that the Council is complying with the Corporate Complaints Policy and any recommendations made by the Ombudsman.
- 4.2.** To ensure that the Committee is provided with assurance of service departments' improvements to customer service to reduce the number of complaints referred to the Ombudsman.

5. Other Options Considered

- 5.1.** Not applicable

6. Background

- 6.1.** The Local Government Act 1974 established the Local Government and Social Care Ombudsman. 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 Ombudsman.
- 6.2.** The Ombudsman 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 Ombudsman decides to investigate, they will try to ascertain if maladministration has occurred and whether there has been any resulting injustice to the complainant because of the maladministration.
- 6.3.** In instances where maladministration with injustice is found, the Ombudsman will usually make non-legally binding recommendations which they consider to be appropriate and reasonable. Although not legally binding, refusal to accept the Ombudsman's recommendation(s) will trigger a Public Report.
- 6.4.** A Public Report is a detailed account of the complaint, outlining the failures by the Council in the investigation; this can have a significant damaging effect on the Council's reputation.
- 6.5.** Appendix One provides details of the two Decision Notices in which the Ombudsman has concluded that there has been maladministration (Fault) causing injustice during the period between 30th March 2022 to 31st July 2022 and of the actions or improvements taken to remedy these.
- 6.6.** The use of complaints as a learning tool to drive service improvements is integral to the Council's Customer Experience Strategy. The Complaints Team now fall under the responsibility of the Head of Customer Service and it is an opportune time to review the information and subsequent assurance provided to the Committee.
- 6.7.** Audit and Governance Committee received the first annual complaints on 28th July 2022, the format of which was welcomed by the Committee.
- 6.8.** The annual report aimed to provide the Committee with an overview of both maladministration notices and the Councils internal complaints procedure to provide assurance of the management and response to complaints at all stages of the complaints process.
- 6.9.** It is proposed to replace the current reports to Audit and Governance Committee with a 6 monthly report based on the format of the annual report and with an emphasis on providing assurance that lessons are learned from

complaints and that appropriate improvements and actions have been delivered.

7. Implications

7.1. Legal

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

7.2. Finance

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 cases outlined in this report the Council was required to make compensation payments totalling £400.

7.3. Policy

There are no direct implications to policy from this report, however, whilst the primary purpose of this report is to inform Members of the Ombudsman's findings, and to seek to secure improvements in performance, resource implications arise from high numbers of Ombudsman findings. These primarily relate to the increased demand upon officers in researching the background to, and in administering complaints. However, if a high volume of complaints were received about a specific policy, a review of the relevant policy could be triggered and referred to the relevant service committee.

7.4. Equality

When responding to complaints, the Council must ensure that people are treated fairly and that we comply with the Equality Act 2010, making reasonable adjustments where necessary. This may include providing responses in large font, using coloured paper or communicating by specific means such as email only.

7.5. Human Resources

Whilst the primary purpose of this report is to inform Members of the Ombudsman's findings, and to seek to secure improvements in performance, resource implications arise from the high numbers of complaints. These relate to the increased demand upon officers in researching the background to complaints and responding appropriately. Where complaints relate to specific staff members, for example because of behaviour or attitude, these are escalated to the appropriate manager.

7.6. Risk Management

If recommendations made by the Ombudsman are not followed, this could trigger a public report, as detailed in paragraph 6.5 and 6.6 of the report.

Rural Communities

There are no direct implications for rural communities.

7.4 Children and Young People/Cared for Children

Children and young people are affected by complaints to SEND, particularly in cases where their needs are not being met. Reference to children's issues is made earlier in the report.

7.5 Public Health

There are no direct implications for Public Health.

7.6 Climate Change

There are no direct implications for climate change.

Access to Information	
Contact Officer:	Mr Alan Ward, Complaints Manager Alan.ward@cheshireeast.gov.uk 01270 686200
Appendices:	Appendix 1 – see below
Background Papers:	None

Appendix 1 - Ombudsman Decisions where Maladministration with Injustice has Taken Place

April 2022 to July 2022

	Summary and Ombudsman's Final Decision	Agreed Action	Action Taken	Comments from Service
Planning Complaint 1	<p>Decision Date: 26 April 2022</p> <p>Summary: Mr X complained the Council delayed taking enforcement action in relation to drainage works linked to a development near his property. The Council was at fault for not taking action sooner. The Council has agreed to remedy Mr X's injustice.</p> <p>21 009 044 - Local Government and Social Care Ombudsman</p>	<p>Within 4 weeks of my final decision, the Council has agreed to:</p> <p>a) Apologise to Mr X for the delayed enforcement action and the impact this had on flooding of the highway outside his property.</p> <p>b) Pay Mr X £100 for the distress and inconvenience caused by the delayed enforcement action and the impact this had on flooding of the highway outside his property.</p> <p>c) Pay Mr X £100 for the time and trouble it has taken him to complain.</p>	<p>An apology letter was issued to the complainant on 13 May 2022 and a payment of £200 was made.</p>	
Planning Complaint 2	<p>Decision Date: 26 April 2022</p> <p>Summary: Mr X complained the Council delayed taking enforcement action in relation to drainage works for a development near his property. The Council was at fault for not taking action sooner. The Council has agreed to remedy Mr X's injustice.</p> <p>21 011 880 - Local Government and Social Care Ombudsman</p>	<p>Within 4 weeks of my final decision, the Council has agreed to:</p> <p>a) Apologise to Mr X for the delayed enforcement action and the impact this had on flooding of the highway outside his property.</p> <p>b) Pay Mr X £100 for the distress and inconvenience caused by the delayed enforcement action and the impact this had on flooding outside his property.</p> <p>c) Pay Mr X £100 for the time and trouble it has taken him to complain.</p>	<p>An apology letter was issued to the complainant on 13 May 2022 and a payment of £200 was made.</p>	

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