

Report to	-	Audit and Standards Committee
Date	-	25 June 2018
Report of the	-	Executive Director
Subject	-	Ombudsman Complaints Monitoring

Recommendation: It be **RESOLVED:** That the report be noted.

1. Details of the complaints made to the Local Government Ombudsman are reported to the Committee as and when they are determined throughout the year. A number of cases have been determined since the Committee's last meeting as detailed below:

Reference	Details of the Allegation	Outcome
16 011 157	<p>Complainant alleges the Council:</p> <ul style="list-style-type: none"> • delayed in offering her assistance as a homeless person; • placed her in unsuitable interim and/or temporary accommodation; • erroneously cancelled a housing benefit claim on the basis of incorrect information. 	<p>Upheld with recommendations which were reported to the Audit & Standards Committee 26 March 2018.</p> <p>The Ombudsman has requested an update of action being taken with regard to the recommendations.</p>
16 018 265	<p>Regarding a neighbouring planning application, the complainant alleges the Council:</p> <ul style="list-style-type: none"> • did not follow its own and national policy; • failed to adequately validate, evaluate or scrutinise the application; • did not properly advertise the application; • presented misleading information. <p>Also, the complainant says for the Council to consider a complaint made against it is against the rules of natural justice.</p>	<p>Not upheld.</p> <p>No evidence the Council is at fault.</p>

Reference	Details of the Allegation	Outcome
17 000 009	<ul style="list-style-type: none"> Complainant alleges continuous defamation of character by a Council officer on Multi-Agency Risk Assessment Conference (MARAC) report 11/11/2015 and by Housing Needs Manager at the appeal hearing in May 2016. Complainant alleges slander in most recent correspondence. Complainant alleges that the Council has used improper practices, given untrue statements, misleading investigatory actions and unjust treatment, with lies and fabrication over the last 16 months. Complainant alleges that she have been treated with malice and discrimination by the Council. 	<p>The Ombudsman will not investigate as the Council had no knowledge about the complaint nor had it had the opportunity to investigate and reply. The complaint was passed back to the Council for investigation.</p> <p>The complaint was investigated at Stage 1 of the Council's Corporate Complaints process and it was not upheld. There was no evidence that the Council was guilty of maladministration or injustice.</p>
17 000 421	<p>The claimant alleges that Rother District Council's investigation process is flawed and questions the Council's ability to make fair non- political planning decisions.</p>	<p>Not upheld.</p> <p>No evidence the Council is at fault.</p>

Reference	Details of the Allegation	Outcome
17 002 515	<p>The complainant alleges that the planning permission granted for two new dwellings next to his property:</p> <ul style="list-style-type: none"> • Should have been put to the Planning Committee. • Previous planning application had been refused for a similar development. • The Council ignored advice from highways and this was not published until after the deadline for comment. • Incorrect information was referenced regarding tree preservation on the decision notice. • The Council failed to carry out an annual review of planning decisions. • The Council did not properly investigate his complaints or respond within set timescales. 	<p>Not upheld.</p> <p>There was fault found in the way that the Council considered the planning application, failing to consider conditions recommended by Highways and mislabelling plans relating to tree protection.</p> <p>However, this did not cause the complainant injustice.</p>
17 002 452	<p>The complainant alleges that:</p> <ul style="list-style-type: none"> • the Benefits department requested that she complete a Change of Address form even though she had only moved rooms in the temporary accommodation provided by the Council. • the Council made enquiries about her son living at this address even though he was only using it as a postal address. • she has been bullied and threatened by the Council because she made a reasonable complaint. 	<p>The Ombudsman will not investigate as the Council had no knowledge about the complaint nor had it had the opportunity to investigate and reply. The complaint was passed back to the Council for investigation.</p> <p>The complaint was investigated at Stage 1 of the Council's Corporate Complaints process and it was not upheld. There was no evidence that the Council was guilty of maladministration or injustice.</p>

Reference	Details of the Allegation	Outcome
17 003 002	The complainant advises that the loss of amenity and privacy at their address caused by the installation of a replacement window in the upper-storey bathroom extension at a neighbouring property was due to and continues to be perpetuated by the Council's subsequent maladministration and unprofessionalism in dealing with his objections.	<p>Not upheld.</p> <p>There is no evidence that the Council is at fault in the way in which it considered whether there was a breach of planning controls, nor was it at fault in determining that enforcement action would not be expedient.</p>
17 004 096	The complainant alleges that the Council will not investigate his complaint that several parish councillors have failed to declare their registerable interests.	<p>Not upheld.</p> <p>The complainant has not been caused any significant injustice from his complaint as it may affect all or most of the people in the Council's area.</p> <p>The Ombudsman will not investigate as it is outside their legal remit.</p>
17 005 436	The complainant has made a complaint about a planning decision made over 12 months ago.	<p>Not upheld.</p> <p>The complainant could have contacted the Council within 12 months of the planning decision being made. There is no reason why discretion should be exercised to bring the matter within the Ombudsman's jurisdiction.</p>

Reference	Details of the Allegation	Outcome
17 008 417	The complainant alleges that a Council byelaw regarding the banning of dogs at Camber Sands is invasive and impedes on his civil liberties restricting his ability to enjoy facilities that other people can.	<p>The Ombudsman will not investigate.</p> <p>The making of byelaws is a legislative rather than administrative action by the Council and the Ombudsman has no power to investigate.</p>
17 008 999	<p>The complainant alleges that:</p> <ul style="list-style-type: none"> the Council has failed to respond to his complaint that it intends to stop accepting cash or cheques for its garden waste service in 2018. the Council has failed to explain why it does not provide receipts for payments for its garden waste service. the Council has put in place a policy which does not allow its Help Desk officers to deal with direct enquiries, instead expecting residents to 'phone in with any enquiries'. the Council has failed to meet its complaints procedure time frame. 	<p>Not upheld.</p> <p>Ombudsman found minor fault, but this did not cause the complainant significant injustice and the apologies offered to him are enough to redress the faults identified as:</p> <p>1. Failing to respond to the complaint within our published timeframe.</p> <p>2. Deviation from usual practice regarding complaint responses.</p>

Reference	Details of the Allegation	Outcome
17 014 114	The complainant is unhappy because he is paying for a garden waste collection, but this has been missed on numerous occasions.	<p>The Ombudsman will not investigate as the Council had no knowledge about the complaint nor had it had the opportunity to investigate and reply. The complaint was passed back to the Council for investigation.</p> <p>The complaint was reviewed at Stage 2 of the Council's Corporate Complaints process and it was upheld. Although Council staff worked to correct procedures to ensure collections take place, the Waste & Recycling contractor did not make sufficiently resilient collection arrangements.</p>
17 014 370	The complainant alleges that the Council has failed to take action regarding a neighbour storing waste items in their front garden.	<p>Upheld as the complainant has received poor service from the Council and has lived for nearly 6 months waiting for progress on his case and a resolution to the mess at his neighbour's property.</p> <p>Recommendations:</p> <p>1. Payment of £650 for time and trouble taken and for the delay and lack of service.</p> <p>2. Ensure case is fully investigated and progressed, including regular updates to the</p>

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		<p>complainant.</p> <p>3. Provide the complainant with an explanation of the likely steps and timeframes now in place.</p> <p>Work has since been completed by the neighbour in question; the Planning and Environmental Enforcement Team are satisfied that there is no further action required.</p>
17 015 751	The complainant alleges that the Council wrongly ignored the outcome of the consultation process re a proposal for Bexhill Town Council.	The Ombudsman will not investigate as it is unlikely an investigation would identify fault and there is insufficient personal injustice.
17 017 343	<p>The complainant alleges:</p> <ul style="list-style-type: none"> • The Council guilty of unreasonable delays in dealing with a council tax reduction claim. • The Council is guilty of perjury. 	<p>The Ombudsman will not investigate as:</p> <p>Issues raised relate to a successful prosecution in a crown court, which they will not consider.</p> <p>The complainant can appeal to the Valuation Tribunal if she disagrees with the Council's decision on her claim.</p>

Reference	Details of the Allegation	Outcome
17 018 880	The complainant has an on-going issue regarding noise from a neighbouring property. They believe the recording equipment used by the Council is not fit for purpose.	<p>The Ombudsman will not investigate as the Council had no knowledge about the complaint, nor had it had the opportunity to investigate and reply. The complaint was passed back to the Council for investigation.</p> <p>This complaint is currently being reviewed at Stage 2 of the Council's Corporate Complaints procedure.</p>
17 019 646	Complainant alleges that the Council has failed to take into consideration a recent court judgement when assessing business rates for beach huts.	<p>Not upheld.</p> <p>It is not up to the Ombudsman to determine whether the Council's approach is legal. This matter could be considered by the courts if the Council enforce a debt against an owner; the courts can then determine the legality of the charge.</p>
18 000 758	The complainant made a complaint to the Ombudsman about the Council's proposal to impose a Public Space Protection Order (PSPO) across the District.	<p>Withdrawn.</p> <p>Complainant has decided not to proceed, as acknowledges that the PSPO has not yet been adopted by the Council.</p>

Reference	Details of the Allegation	Outcome
18 007 260	<p>The complainant alleges:</p> <ul style="list-style-type: none"> • Rother District Council has obtained a liability order for unpaid council tax that the complainant is not liable for. • Had made contact with the Council in April 2018 to explain that they had not signed any forms to accept liability for Council Tax. The owner of the property was residing at the address, so they should be liable. • The officer the complainant spoke to was rude. • The Council is taking money from their benefit for the council tax owed and this is negatively affecting the complainant's health. 	<p>The Ombudsman will not investigate as the Council had no knowledge about the complaint nor had it had the opportunity to investigate and reply. The complaint was passed back to the Council for investigation.</p> <p>The complaint is being investigated at Stage 1 of the Council's Corporate Complaints process.</p>

Malcolm Johnston
Executive Director

Risk Assessment Statement

There are no risks attributed to this report.