

## Rother District Council

Report to	-	Audit and Standards Committee
Date	-	24 June 2019
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
18 000 220	The complainant alleges that the Council is guilty of maladministration and has failed to respond to a series of enforcement complaints regarding planning applications.	The Ombudsman found that the Council was at fault in not properly communicating its enforcement decisions to the complainant. The Council has apologised to them for these failings and is taking action to prevent them happening again. In view of this the Ombudsman does not propose the Council takes any further action.
18 004 352	The complainant alleges that the Council revoked his premises alcohol licence illegally.	The Ombudsman will not investigate this complaint. This is because it would be reasonable for him to have appealed to the Magistrates' Court.
18 006 133	The complainant alleges that his property has been damaged by his neighbour and his land has suffered flooding. He says the neighbour was carrying out works for which the Council granted planning permission.	The Ombudsman will not investigate this complaint. This is because they are unlikely to find evidence of fault by the Council. The complainant could take legal action if he considers the neighbour responsible for damage to his property.

18 007 338	<p>The complainant alleges that the Council repeatedly missed household waste collections at his address over the course of six months during 2018.</p>	<p>The Ombudsman completed their investigation with a finding of fault causing injustice.</p> <p>The Council was ordered to pay compensation to the complainant:</p> <ul style="list-style-type: none"> <li>• £250 to reflect the distress caused by repeated missed collections of household waste; and</li> <li>• a further payment of £100 to reflect the time and trouble he has been to in pursuing this matter.</li> </ul>
18 009 027	<p>The complainant alleges that the Council:</p> <ul style="list-style-type: none"> <li>• included incorrect information in its consideration of a planning application for a development in the village where he lives;</li> <li>• failed to publicise a representation when it received it;</li> <li>• failed to answer a request under the Freedom of Information Act;</li> <li>• officers may have committed fraud by misleading him about plans for the application site; and</li> <li>• failed to deal with his complaint according to its complaints procedure.</li> </ul>	<p>The Ombudsman will not investigate this complaint because:</p> <ul style="list-style-type: none"> <li>• they do not consider the Council's delay in publishing a document on its planning website caused the complainant a significant personal injustice;</li> <li>• his complaint about the way the Council dealt with his request for information has already been investigated by the ICO and it is unlikely that further investigation will lead to a different outcome;</li> <li>• the Ombudsman cannot consider criminal allegations, these are matters for the Police;</li> <li>• the Ombudsman cannot involve itself in disciplinary matter and cannot investigate matters which occurred more than 12 months ago; and</li> <li>• any injustice to the complainant because of any failings in the complaints process alone is insufficient to warrant the Ombudsman's</li> </ul>

		involvement.
18 010 319	The complainant alleges that errors made by Rother District Council amount to maladministration with regard to application RR/2017/2097/P by producing a non-impartial Planning Committee report which favoured the developers' side by the inclusion of false information and supported a false premise.	The Ombudsman will not investigate this complaint because there is insufficient injustice caused to the complainant to warrant investigation.
18 010 882	Complainant alleges that the Council has failed to provide reasonable adjustments under s20 of the Equalities Act 2010 in relation to indirect discrimination as a result of a TPO (Tree Preservation Order) they claim has been unlawfully affixed to their property in 1998.	The Ombudsman will not investigate this complaint about the Council's refusal to allow works to a protected tree. The complainant can appeal to a government minister about the central issue in his complaint. It would not be a good use of public funds to investigate his related concerns.
18 010 897	The complainants alleged that the Council had failed to use its powers to act against a neighbour who they claimed was harassing and threatening them. They said this neighbour was using a boundary dispute to harass them.	The Ombudsman will not investigate this complaint. This is because it is unlikely an investigation would find fault or add anything to the Council's own investigation.
18 011 033	Complainant alleges that the Council cancelled the paid for garden waste collection service in March 2018 so it could catch up with missed collections during bad weather. She complains residents pay for this service separately and the Council should have offered a reduction in the cost, or provided another collection.	The Ombudsman will not investigate this complaint. This is because further consideration of the complaint is unlikely to find fault by the Council or a significant personal injustice to the complainant.
18 011 967	Complainant alleges the Council failed to properly investigate application RR/2018/266/FN and the background to it. They allege the Council: <ul style="list-style-type: none"> <li>• relied on information provided by the applicant without properly validating or verifying the factual accuracy of this</li> </ul>	The Ombudsman will not investigate this complaint as he has not seen evidence of fault in the way the Council made its decision on the prior approval planning application.

	<p>information and without establishing the true level and nature of the activities on the site;</p> <ul style="list-style-type: none"> <li>• relied fully on the recommendations of the Rural Estate Surveyor who had not visited the site prior to making his final decision; and</li> <li>• failed to give sufficient consideration to the first-hand knowledge and comments made and submitted to it by residents in the local community and the two Parish Councils with regard to the activities on the relevant site.</li> </ul>	
18 016 451	<p>The complainant alleges the Council has refused to vary a Tree Preservation Order (TPO) which wrongly locates the TPO tree as being on his property and which he says will cause confusion to any potential buyers of his property.</p>	<p>The Ombudsman will not investigate this complaint. This is because an investigation by the Ombudsman is unlikely to add to the investigation already carried out by the Council or lead to a different outcome.</p>
18 016 623	<p>The complainant complained about the Council's handling of her neighbour's retrospective planning application to retain a newly-built garage. She said:</p> <ul style="list-style-type: none"> <li>• it failed to take enforcement action over the garage;</li> <li>• it put a site notice advertising the application in a place where few people would see it; and</li> <li>• it did not consider the sewer beneath the new garage or contact Southern Water about the sewer.</li> </ul>	<p>The Ombudsman will not investigate this complaint about the Council's handling of a retrospective planning application. It is unlikely they would find fault with the Council, and in any event, the alleged fault has not caused the complainant any injustice.</p>
18 016 693	<p>Complainant is complaining about a Council Tax bill that he is disputing.</p>	<p>The Ombudsman will not investigate this complaint. This is because it can be appealed to a Valuation Tribunal.</p>

Malcolm Johnston  
Executive Director

### **Risk Assessment Statement**

There are no risks attributed to this report.