

Report to - Audit & Standards Committee
 Date - 9 December 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 |
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| 18 009 798 | <p>The complainant alleges that the Council was difficult to deal with regarding outstanding council tax payments. An arrangement was allegedly made to place their account on hold. On the same day the hold came off the account, a debt collector attended the complainant's address at 6am, demanding money with menaces. The complainant also alleges that the debt collector told them that a Council officer was going to give the order to break in to the complainant's property which is unlawful. The complainant offered £500 pounds to the debt collector but this was refused. The complainant is accusing the Council of gross injustice as his children paid with their credit cards at high APR to satisfy Rother District Council.</p> | <p>This complaint has been upheld by the Ombudsman. They have determined that the Council is at fault in the way its bailiffs carried out some elements of the enforcement action against the complainant for non-payment of council tax.</p> <p>The Council are to apologise to the complainant for the fault in the way enforcement action took place and pay £200 for distress this caused.</p> <p>The Council will also need to provide proof the Enforcement Agency has reviewed its procedures and addressed with its bailiffs what requirements must be met for a bailiff to take control of goods in line with the law and consider what policies it wishes its bailiffs to have regarding the use of body-worn cameras.</p> |

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| 18 014 348 | <p>Customer alleges that the Council's Planning and Environmental Health officers, East Sussex Building Control Partnership and an approved Building Inspector have all failed in their statutory duties relating to a commercial premises and their duty of care to the resident adjoining it. Causing 17 months of stress and substantial personal cost.</p> | <p>This was upheld by the Ombudsman. The Council provided the complainant with an unreserved apology for incorrectly advising that there were no breaches of planning control in August 2018. The Council also extended this apology to include the failure to pursue the environmental health investigation in the absence of the lead officer. The complainant has been assured that this has been raised with the department managers to avoid a repeat of this action, particularly when there are two or more departments working jointly on a case. The Council paid £200 to the complainant as compensation for these failures.</p> |
| 18 015 743 | <p>Public Space Protection Order (PSPO) formal consultation is complete. The complainant alleges that the PSPO introduced on 29 November 2018 regarding sleeping overnight in motor vehicles is not according to government guidelines and is not proportionate. He alleges that this shows that rather than the law being used fairly towards all road users, it is used in a discriminatory almost racist way towards people who live in motor homes due to high rents and lack of affordable housing both private and public. He believes it could be seen as harassment under the harassment of persons act 1997.</p> | <p>Withdrawn. The complainant decided not to proceed with his complaint because he acknowledges that the PSPO has not yet been adopted.</p> |
| 18 016 530 | <p>The complainant is aggrieved about the Council's handling of their neighbour's retrospective planning application to retain a newly-built garage. Complainant alleges:</p> <ul style="list-style-type: none"> • it failed to take enforcement action over the garage; • it put a site notice advertising the | <p>This complaint has not been upheld. The Ombudsman's decision is there is no evidence of fault in the decision making.</p> |

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| | <p>application in a place where few people would see it;</p> <ul style="list-style-type: none"> • it did not consider the sewer beneath the new garage or contact Southern Water about the sewer. | |
| <p>18 016 623</p> <p>*The subject of this complaint is identical to the complaint above and was submitted to the Ombudsman by two separate individuals and therefore treated as two separate complaints.</p> | <p>The complainant is aggrieved about the Council's handling of their neighbour's retrospective planning application to retain a newly-built garage.</p> <p>Complainant alleges:</p> <ul style="list-style-type: none"> • it failed to take enforcement action over the garage; • it put a site notice advertising the application in a place where few people would see it; and • it did not consider the sewer beneath the new garage or contact Southern Water about the sewer. | <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 injustice.</p> |
| 18 016 888 | <p>Complainant alleges that the Council has been heavy handed, unreasonable and unfair when dealing with their lease and has cost them and other parties a considerable amount of money, and could easily have been avoided with a more considerate and consistent approach by Rother District Council.</p> | <p>The Ombudsman has discontinued the investigation because the matters are too old for them to consider and based on the evidence seen, there is no good reason to exercise their discretion.</p> |
| 18 017 570 | <p>The complainant alleges that the Council wrongly served a Community Protection Notice (CPN) in response to his neighbour's reports of antisocial behaviour. He says this has affected his reputation and caused him stress and anxiety.</p> | <p>The Ombudsman cannot investigate this complaint about the Council's issue of a CPN and its publication of information relating to this case. The complainant appealed against the notice and if he has concerns about information published by the Council he should take the matter to the Information Commissioner's Office and may claim compensation through the courts.</p> |
| 19 001 932 | <p>Complainant alleges the Council inspected their rented property for disrepair when they are taking action to evict the tenant from breach of tenancy conditions.</p> | <p>The Ombudsman would not investigate this complaint. This is because there is insufficient evidence of</p> |

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| | | fault which would warrant an investigation. |
| 19 003 842 | The complainant alleges the Council returned his council tax payments, closed its bank account, and threatened him with legal action. He wants compensation. | The Ombudsman will not investigate this complaint about the way the Council handled the complainant's council tax. This is because there is insufficient evidence of fault by the Council. |
| 19 004 176 | The complainant alleges he was unable to vote in local elections because the Council failed to arrange his postal vote. | The Ombudsman cannot investigate this complaint. The complaint is outside the Ombudsman's legal remit as the Council is not responsible for the organisation of elections. The Returning Officer organises elections and in this role, works in a personal capacity, not on behalf of the Council. |

2. A Total of 11 Complaints were made to the Local Government and Social Care Ombudsman covering the period 1 June to 14 November 2019 of which:
- 2 have been upheld (Council found to be at fault)
 - 1 has not been upheld (Council not at fault)
 - 6 cannot/ will not be investigated
 - 1 has been withdrawn
 - 1 is awaiting the final decision
3. Previously the Committee asked for details in relation to non-ombudsman complaints made to the authority for the same period. There were 116 complaints made by residents from 1 June 2019 to 14 November 2019 of which:
- 77 of these were non-complaints (treated as department service request and resolved).
 - 21 were resolved at initial stage (resolving complaint with customer).
 - 1 was a stage 1 complaint (responded to formally in writing).
 - 1 was a stage 2 complaint (responded to formally by Head of Service).
 - 16 are currently awaiting determination/under investigation.

Malcolm Johnston
Executive Director

Risk Assessment Statement

There are no risks attributed to this report.