

COUNCIL

26 NOVEMBER 2024

REPORT OF THE MONITORING OFFICER

A.8 LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN FINDING OF MALADMINISTRATION

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The Constitution (Article 12.03(a)) requires the Monitoring Officer to report to Council (or to Cabinet for executive functions) if any decision or omission has given rise to maladministration. This report concerns actions that the Local Government and Social Care Ombudsman has determined were maladministration/service failings. The relevant complaint summary is set out below.

This report is also required under section 5A of the Local Government and Housing Act 1989 in view of the aforementioned decision in this matter by the Local Government and Social Care Ombudsman.

EXECUTIVE SUMMARY

The Local Government and Social Care Ombudsman has recently determined a complaint received by it and has found that there was maladministration in this case. A summary of the case is set out elsewhere in this report. Through this report, the Monitoring Officer is bringing the matters to the attention of the Council as the matters concerns non-executive functions of the Council. Council is particularly requested to note the findings/orders/recommendations from the Local Government and Social Care Ombudsman, the compliance with those matters by the Council and the wider learning points set out.

In addition to reporting to Council, there is now a practice which will involve reporting of findings of maladministration by an Ombudsman Service to the Audit Committee. It should also be noted that a revised combined complaints procedure of the Council is being drafted with the intention of being submitted to the Audit Committee on 30 January 2025. The combined complaints procedure will seek to address the expectations of the parallel Codes adopted by the Housing Ombudsman and by the Local Government and Social Care Ombudsman.

RECOMMENDATION(S)

It is RECOMMENDED that Council receives and notes this report and, in particular the findings/orders/recommendations from the Local Government and Social Care Ombudsman in the case covered by this report, the compliance with those matters by the Council and the wider learning points set out.

REASON(S) FOR THE RECOMMENDATION(S)

The Constitution requires that maladministration findings are reported to Council for non-executive functions. In receiving the report, the particulars of the cases are relevant, as is the Council's compliance with the decisions of this Ombudsman and wider learning points.

ALTERNATIVE OPTIONS CONSIDERED

To not submit a report on the case concerned would have been contrary to the provisions of the Constitution (and section 5A of Local Government and Housing Act 1989). As such, not reporting this matter was discounted.

PART 2 – SUPPORTING INFORMATION**BACKGROUND**

The case considered by the Local Government and Social Care Ombudsman is set out below.

The matter related to a claimed failure by the Council to investigate concerns about a development neighbouring the complainant's home, a failure to correctly apply permitted development guidance and building regulations, and about the Council's complaint handling. The Ombudsman found that the Council was not at fault for how it considered and applied permitted development guidance. It did not question the merits of the Council's decision in this regard. The Ombudsman found the Council at fault for not making a clear decision on whether building regulations applied to the development and for not addressing concerns raised by the complainant in a timely way. This caused avoidable injustice for the complainant. The Ombudsman also found the Council at fault for its complaint handling. Recommendations to remedy the injustice caused were submitted to the Council and accepted by it.

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The recommendations from the Ombudsman in the case were:

Within four weeks of the final decision being issued, to:

- a) Provide a written apology to the complainant for the faults and injustice identified.
- b) Pay the complainant £400 in recognition of the injustice experienced.

The Council has provided the requested apology and has taken the necessary step to pay the sum identified to the complainant. These steps included the publication of the decision of the Chief Executive to authorise the payment concerned. This was published on 12 November 2024.

Since the time of the complaint the Council has implemented revised procedures around complaint handling with a view to improving the consistency of compliance with the council's existing complaints procedure. In addition, that complaints procedure is itself being revised to align with the expectations of the two Ombudsman Services (separately for Local Government & Social Care and for Housing) as set out in their parallel codes.

The Director of Planning and Communities has met with both the Building Control & Planning Enforcement teams and shared the Ombudsman's final decision and findings with them at their team meetings. The Director of Planning and Communities has set down a clear expectation of the timelines required for responses to complaints and enquiries and have stressed that ongoing matters should be closed in a clear and precise manner which shall include a full explanation to the customer / complainant. Further training has been arranged and will cover improvements to customer service.

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