

Gloucester City Council

Meeting:	Cabinet	Date:	17 June 2015
	Audit and Governance Committee		1 July 2015
Subject:	Local Government Ombudsman decisions		
Report Of:	Monitoring Officer		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	1. Report of the Local Government Ombudsman no 13 016 059		
	2. Report of the Local Government Ombudsman no 14 012 705		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To make Members aware of two recent Ombudsman investigations resulting in findings of fault or injustice on the part of the Council.

2.0 Recommendations

- 2.1 Cabinet is asked to **RESOLVE** that:

- (1) That the contents of the report be noted;
- (2) That it is satisfied that steps have been taken to address the findings and consider whether any other action should be taken;
- (3) That authority be delegated to the Corporate Directors, in consultation with the relevant Cabinet Members, to produce a response to the Ombudsman's reports and ensure that this is sent to all Members and the Ombudsman

- 2.2 Audit and Governance Committee is asked to **RESOLVE** that the contents of the report be noted.

3.0 Background and Key Issues

- 3.1 The Local Government Ombudsman investigates and reports on complaints from members of the public who claim to have sustained injustice as a result of maladministration. Maladministration can encompass a number of failings by a local authority, including inattention, neglect and delay. Where the Ombudsman decides that injustice has been caused by an authority's maladministration, the authority concerned must consider the Ombudsman's report. In this case, the Ombudsman's final reports were published on 3 February 2015 and 7 April 2015.

- 3.2 The Council has 3 months from the publication of the final report to notify the Ombudsman of the action that has been taken or will be taken in response to the report. An extension has been requested to this timescale in respect of the first complaint to enable the report to be considered when Council business resumes after the elections and the Ombudsman has agreed to this.
- 3.3 The Local Government Ombudsman has recently investigated two complaints: one by Mrs X, on behalf of her daughter, Mrs A, about delays by the City and County Councils in making proper arrangements for grant-aided works to meet Mrs A's needs as a disabled person; and one by Mr Y about delay by the Council in implementing a Tribunal decision regarding his housing and council tax benefit in December 2013 until January 2014, and the taking of recovery action for Council Tax arrears during this time.

Complaint by Mrs X (on behalf of Mrs A, deceased)

- 3.2 In this case, Mrs A complained about the actions of the City and County Councils in delaying making proper arrangements for grant-aided works to meet her needs as a disabled person. She complained about delays in installing a ramp to allow access and egress from her property; she said the City Council's grants officer had approved a cheap, unsuitable stair lift; she complained about poor liaison with herself and with the County Council about the approval of a Disabled Facilities Grant (DFG); she complained about lack of liaison between the Councils about the grant for the bathroom adaptations which she then had to pay a considerable amount towards. She said the delays and the failure of liaison had caused her and her family considerable stress at a difficult time. Mrs A sadly died during the complaint investigation but Mrs X, her mother, wished to pursue the complaint on her behalf.
- 3.3 The Ombudsman found that the City Council was not at fault in the way it approved the schemes for the bathroom adaptations or the stair lift. It was right for the Council to explain to Mrs A that she could not include in later applications adaptations which were already necessary. However, the Council was at fault in the way it liaised with the County Council about the provision of a ramp, and in the lengthy delays in providing, after 18 months, the modular ramp Mrs A requested initially. The Council should pay £1000 to Mrs A's family to acknowledge the injustice caused.
- 3.4 Cabinet is asked to note that the Ombudsman also investigated the complaint against the County Council and this is under a different reference number (13 014233).
- 3.5 The Head of Legal and Policy Development, in consultation with the relevant Cabinet Member and the Head of Paid Service, has already agreed to pay £1,000 to Mrs A's family and to acknowledge the failings in this case.
- 3.6 In line with the Good Practice Guide, Delivering Housing Adaptations for Disabled People and, in particular, paragraph 5.40: Interim Help, it is accepted that the City Council has a role to play in determining a solution where the circumstances will result in a lengthy delay before a permanent solution can be found to provide essential adaptations. A more proactive approach is needed where the grant

process has stalled and consideration will be given in the future as to how temporary works, as an interim measure, could be funded.

Complaint by Mr Y

- 3.7 Mr Y complained that the Council delayed implementing a Tribunal decision regarding his housing and council tax benefit in December 2013 until January 2014. During this time the Council took recovery action for council tax arrears.
- 3.8 The Ombudsman found that there was fault by the Council because it delayed paying housing and council tax support to Mr Y for 6 months. This led to council tax recovery action and added costs. The Council has agreed to pay Mr Y £200.
- 3.9 As acknowledged in the Ombudsman decision, the Council has already agreed to pay £200 to Mr Y in this case.
- 3.10 The Council's processes are being revised to ensure that the outcomes of tribunal hearings given verbally are recorded on the relevant system, as well as those outcomes given in writing.

4.0 Alternative Options Considered

- 4.1 There are no alternative options relevant to this matter.

5.0 Reasons for Recommendations

- 5.1 There is a statutory requirement to respond to an Ombudsman report that identifies maladministration and a need for the Cabinet to consider what action needs to be taken as a result of the report.
- 5.2 Audit and Governance Committee is responsible for reviewing the Council's corporate governance arrangements and for monitoring the operation of the Council's codes and protocols and the Council's complaints process and to advise the Council on the adoption or revision of such codes. In doing so, it receives an annual report on complaints, comments and compliments made to the Council.

6.0 Future Work and Conclusions

- 6.1 This is as outlined in the report. Members are asked to note that changes have been made to the Council's procedures following these decisions. In the case of disabled facilities grants, a more proactive approach will be taken where the grant process has stalled and consideration will be given as to how temporary works, as an interim measure, could be funded. In the case of benefits, the Council's processes are being revised to ensure that the outcomes of tribunal hearings given verbally are recorded on the relevant system, as well as those outcomes given in writing.

7.0 Financial Implications

- 7.1 The figure of £1,000 in respect of Mrs A's complaint will be taken from within existing budgets.

- 7.2 The compensation for Mr Y's complaint has been deducted from Mr Y's outstanding Council Tax account.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 The Local Government and Housing act 1989 places a duty on the Monitoring Officer to report the Ombudsman's findings to the Cabinet and send a copy of her report to each Member of the Council. The same Act places a duty on the Cabinet to consider this report and, as soon as practicable after it has concluded its consideration of the report, prepare its own report specifying:

- What action, if any, the Cabinet has taken in response to the report;
- What action, if any, the Cabinet proposes to take in response to the report and when it proposes to take that action;
- The reasons for taking the actions or, as the case may be, for taking no action.

- 8.2 A copy of that report must also be sent to each Member of the authority. The Local Government Act 1974 also requires the Cabinet to consider and respond to any Ombudsman report making a finding of maladministration.

- 8.3 The Ombudsman's reports are available for members of the public to inspect.

- 8.4 The Ombudsman's recommendations are not legally enforceable although it is extremely unusual for an authority not to accept them. If the Ombudsman is not satisfied with the action proposed, she can publish a further report and can compel an authority to publicise her views. In these instances, Officers have accepted the findings of the Ombudsman, agreed to pay the amounts recommended by the Ombudsman and have agreed to make an apology.

9.0 Risk & Opportunity Management Implications

- 9.1 The findings highlight the risk that if policies and procedures do not adequately ensure that the Council carries out its functions without delay, there is a risk of complaints, potential legal challenge, adverse publicity and financial cost.

10.0 People Impact Assessment (PIA):

- 10.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

- 11.1 There are no community safety implications.

Sustainability

- 11.2 There are no sustainability implications.

Staffing & Trade Union

11.3 There are no staffing implications.

Background Documents: None.