

Gloucester City Council

Meeting:	Audit and Governance Committee	Date:	19 September 2016
Subject:	Local Government Ombudsman Decisions		
Report Of:	Monitoring Officer		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
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FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To consider reports of the Ombudsman in respect of two recent Ombudsman investigations, one resulting in a finding of fault or injustice on the part of the Council and the other where the case was not pursued.

2.0 Recommendations

- 2.1 Audit and Governance Committee is asked to **RESOLVE** that:

- (1) The contents of the report be noted;
- (2) It is satisfied that appropriate steps have been taken to address the findings and that no further action needs to be taken by the Council.

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. The Ombudsman's final reports on the cases referred to in this report were published on 28 July 2016 and 11 August 2016.
- 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.

Complaint by Mr X – 16 000 988

- 3.3 In this case, Mr A complained, on behalf of the Golf Club that he manages, that the Council was at fault for not awarding business rate relief due to flooding between 1 April 2013 and 21 March 2014.
- 3.4 The Ombudsman found that the Council was not at fault in refusing Mr A's application for business rate relief because the guidance issued to the Council was non-statutory and the Council was entitled to exercise its discretion about whether or not to make a payment. However, the Council took 11 months to determine the application and the Ombudsman acknowledged that the delay in responding was excessive and the Council was at fault because of the delay.
- 3.5 However, the Ombudsman concluded that the delay had not resulted in enough injustice to warrant a remedy, as there was no relief due to the Club.

Complaint by Ms B – 16 004 924

- 3.7 Ms B complained about the Council's decision to recover an unpaid business rates debt from 2013. Ms B claimed that the bill was for the whole of the premises when, in reality, she was occupying part, only for two months and was sharing with another person. She also complained that the use of enforcement agents was intimidating and added significant costs to the bill.
- 3.8 The Ombudsman found that Ms B had received a bill for occupation of the whole floor. When she challenged the basis of the bill Ms B was advised that the Council was the billing authority and she should pursue the matter with the Valuation Office Agency (VOA) as the body responsible for setting the payable rates. Ms B did contact the VOA but she was not present at the property on two occasions when the VOA called to make a revaluation inspection.
- 3.9 Ms B made no payments towards the bill and took no further action despite the Council issuing a summons and obtaining a court order in respect of the debt. As a consequence the Council passed the matter to enforcement agents and this prompted Ms B to action. Ms B new about the debt in 2014 but did nothing more until enforcement action was taken. The Council was the billing authority and there was no evidence of fault in the procedure which the Council followed.
- 3.9 The Ombudsman's decision was that she will not exercise her discretion to investigate Ms B's complaint which has been made outside of the normal 12 month period because there is not enough evidence of fault to warrant an investigation.

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 Council 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.

6.0 Future Work and Conclusions

- 6.1 In respect of Case 16 000 988, procedures have been reviewed and staff have been briefed to ensure that unacceptable delays are avoided. A letter has been issued acknowledging the fault and offering an apology.
- 6.2 In respect of Case 16 004 924 no further action is proposed.

7.0 Financial Implications

- 7.1 None

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

(One Legal have been consulted in the preparation of this report)

9.0 Risk & Opportunity Management Implications

- 9.1 The findings highlight the need thoroughly consider all aspects of a complaint to ensure that all relevant factors are taken into account before any action is taken.

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.