

SLOUGH BOROUGH COUNCIL

REPORT TO: Audit & Corporate Governance Committee **DATE:** 5 March 2020

CONTACT OFFICER: Sushil Thobhani, Service Lead (Governance) & Deputy Monitoring Officer

(For all enquiries) (01753) 875036

WARD(S): All

PART I **FOR INFORMATION**

LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN – COMPLAINTS, FINDINGS AND RECCOMENDATIONS

1 Purpose of Report

The purpose of this report is to update members of the Committee on complaints to the Local Authority and Social Care Ombudsman and his findings and recommendations, since the last report to the Committee on this subject on 9 December 2019.

2 Recommendation(s)/Proposed Action

The Committee is requested to note the contents of this report.

3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan

The delivery of all these strategic priorities is dependent on the highest possible standards of openness, honesty and accountability. The Council's learning and actions in response to these findings and recommendations will serve to enhance the delivery of these priorities.

4 Other Implications

(a) Financial

There are no direct financial implications arising from this report.

(b) Human Rights Act and Other Legal Implications

The law relating to the Local Government and Social Care Ombudsman is contained in the Local Government Act 1974, as amended. Under the Local Government Act 1974, as amended, the Local Government and Social Care Ombudsman ("the Ombudsman") can investigate any alleged or apparent:

- maladministration in connection with the Council's administrative functions
- failure in a service which it was the Council's function to provide

- failure to provide a service which it was the Council's function to provide
- failure in a service provided by the Council under its public health functions; or
- failure to provide a service under the Council's public health functions.

The Ombudsman can prepare a report following his or her investigation which may include recommendations of actions for the Council to take to remedy the maladministration including a recommendation to pay monetary compensation to the complainant.

The Ombudsman does not have formal legal powers to enforce compliance by the Council with his recommendations. Failure by the Council to comply with the recommendations could, however, result in the issue by the Ombudsman of a formal public interest report about the complaint, naming the Council. This report must be made available to the public and advertised in the local press covering the Council's area. If the Council do not agree to carry out the recommendations in the report the Ombudsman will issue a further report. After this, if the Council still do not take satisfactory action they must publish a statement in a local newspaper explaining why they have refused to follow the Ombudsman's recommendations.

Under the Monitoring Officer Protocol in Part 5.6 of the Council's constitution Directors must consult the Monitoring Officer prior to making any compensation payments for alleged maladministration found against the Council and Directors and Members must report any breach of statutory duty or material breach of Council policy/procedures and other vires or constitutional concerns to the Monitoring Officer as soon as reasonably practicable.

(c) Equalities Impact Assessment

No need to conduct an EIA assessment is identified from the matters contained in this report.

5 **Supporting Information**

The following table summarises the complaints, findings, recommendations and outcomes in relation to complaints made to the Local Government and Social Care Ombudsman, concerning the Council since the last report to the Committee on this subject on 9 December 2019.

No.	Council Function Involved	Nature of complaint	Findings, recommendations and outcome
1.	Environment & Regulation – Abandoned Vehicles	The complainant complained that the council removed and destroyed his vehicles which he claimed had not been abandoned (for which he wanted financial	The Ombudsman concluded that the Council acted properly in removing and destroying the vehicles and there was no fault

		<p>compensation) and that the Council failed to respond to his complaints about the situation.</p> <p>The Ombudsman found the complainant left three cars on private land with the landowner's permission which the complainant said were in safe and tidy condition and the Council had received a report they were abandoned. They had been on the land for several years.</p> <p>The council had the right under the Refuse Disposal (Amenity) Act 1978 to remove vehicles, even from private land if abandoned, and it had followed the proper procedures prescribed by the act, including placing notices on the vehicles, serving notices on registered keepers and sending notices to the owner of the land.</p> <p>The Complainant could not prove ownership of the vehicles.</p> <p>The Council took two months to respond to the complaint and the officer who responded, who was the team leader, was the subject of the complaints.</p>	<p>in this regard and no injustice caused to the complainant.</p> <p>The Council, however, failed to follow its complaints process in that it took longer to respond to the complaint than it should have and the response should not have been sent by the officer who was the subject of the complaint but should have been from a manager.</p> <p>The Ombudsman recommended that the council apologise for not following its own complaints procedure at stage one and that the Council remind relevant staff they must follow the published complaints procedure when they receive a complaint.</p>
2.	Education – Special Education Needs	<p>The complainant complained that the Council did not issue a final Education Health & Care Plan (EHC) naming her daughter's school for more than a year and that as a result her daughter was without the support she could have received if the plan had named the school.</p> <p>The complainant's daughter started secondary school in September 2016. The complainant requested a SEN assessment in May 2017. The Council issued a draft EHC</p>	<p>The Ombudsman concluded that he could not uphold the complaint that the delay in naming the school meant that the complainant's daughter missed out on support she needed for over a year.</p> <p>Whilst the plan took considerably longer than it should have, the amended plan in January 2019 was largely unchanged from</p>

		<p>plan in November 2017. The school responded in December 2017 stating it did not feel it could meet the needs of the complainant's daughter. The Council issued a final EHC plan at the end of December 2017.</p> <p>The Plan did not name a school but stated the complainant's daughter would attend mainstream school which would receive a "top up" of £2,000 to meet the daughter's needs. She continued to attend the same school. She received a diagnosis of Autistic Spectrum Disorder in December 2017.</p> <p>The Council began a review of the EHC Plan in March 2018. The school again responded that it could not meet the special needs. The Council responded to the school but it did not change its mind. After three drafts the Council issued the final EHC plan in January 2019 which named the school.</p>	<p>the original plan which meant the Council was satisfied that the provision continued to meet the need. The complainant had a right of appeal to the Tribunal which she did not exercise but remained unhappy with the support her daughter received.</p> <p>The Ombudsman could not resolve this. One way to resolve it would have been for the complainant to appeal to the Tribunal at the next opportunity and ask the Tribunal to name the school and quantify the support her daughter needs if the Council would not do so.</p> <p>The one specific example given by the complainant of the support which she felt her daughter missed out on was one-to-one support in maths lessons but her daughter's plan did not say she should have such support so there was no fault in not providing this support.</p>
3.	Children's Care Services – Looked After Children	<p>The complainant complained that the Council failed to protect his child whilst in their care and failed to respond to his complaints about this.</p> <p>The Council began to look after the child at 4 days old in June 2018 and the child suffered injury in September 2018 while in foster carers' care.</p>	<p>The Ombudsman concluded that he could not investigate whether a crime had been committed. The police were doing this and it was reasonable for the Council to wait for the police investigation to finish and it was also reasonable for the complainant to complain to the council</p>

		<p>The Council's position was that a police investigation was continuing into the injury and no information could be given until the investigation was complete.</p> <p>The Council also maintained that there were Court proceedings in 2019 which determined the care arrangements for the child and its complaints procedures would not look into the same issues.</p> <p>The Ombudsman considered the complaint and the information provided by the complainant and gave the complainant an opportunity to consider his draft report and comment before making the final decision.</p>	<p>once that investigation was completed.</p> <p>The Ombudsman also concluded that he could not investigate the decision about who should care for the child. The court decided this. It could have made interim decisions during the proceedings. It was reasonable for the complainant to have told the court about his concerns for the child's care.</p> <p>The Ombudsman could not and would not investigate the complaint because he could not investigate the Court's decisions and it was reasonable for the complainant to complain to the Council once the police investigation was completed.</p>
4.	Housing - Homelessness	<p>The complainant complained that the Council placed him in unsuitable temporary accommodation for one month in 2018 and therefore the council should refund him the rental for the period he spent there.</p> <p>The Ombudsman considered the complaint and the information provided by the complainant and gave the complainant an opportunity to consider his draft report and comment before making the final decision.</p> <p>The Ombudsman found that the Council offered the complainant the temporary property at short notice because the permanent</p>	<p>The Ombudsman concluded that it was up to the Complainant to consider whether to accept the Council's offer but there was nothing that warranted investigation by him.</p>

		<p>property they intended to offer him became unavailable at short notice. The complainant accepted the offer and signed the agreement but was not satisfied with the conditions at the house. The complainant said there was rubbish in the garden, no grab rails in the bathroom for his pregnant wife, and the utility meters had problems from debts left by previous tenants. The complainant did not seek a review or appeal against the suitability of the accommodation but asked the Council to reimburse the one month rental. The council's position was that the rubbish was removed promptly by the landlord and the complainant was able to resolve the utility supply problems himself.</p> <p>At stage 3 of the complaint the Council offered the complainant £100 for the initial inconvenience he experienced.</p> <p>The Ombudsman found that there was insufficient evidence that the property was unsuitable for the complainant's needs, the external rubbish was removed promptly and there were no disabled persons in the household to require aids to be fitted to the property.</p>	
5.	Children's Care Services – Court Reports	<p>The complainant complained about the contents and the accuracy of a Section 7 Report and the conduct of the social worker who prepared the report. A Section 7 Report is a report prepared by a social worker at the request of the Court under Section 7 of the Children's Act 1989 to assist the court in making decisions in private law children's proceedings relating to</p>	<p>The Ombudsman concluded that if the complainant was unhappy about the contents of the report the court was the appropriate place to challenge it.</p> <p>The ombudsman also concluded that the conduct of the social worker who wrote the</p>

		<p>arrangements for children where the parents are estranged.</p> <p>The Ombudsman considered the complaint and the information provided by the complainant and gave the complainant an opportunity to consider his draft report and comment before making the final decision.</p>	<p>report was inextricably linked with the content of the Report and was not separable and it was reasonable therefore for the complainant to raise his concerns with the court and an investigation by him was not therefore appropriate.</p>
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6 **Conclusion**

The Committee is requested to note the Contents of this Report.

7 **Background Papers**

The Local Government and Social Care Ombudsman's decision notices.