

SLOUGH BOROUGH COUNCIL

REPORT TO: Audit & Corporate Governance Committee **DATE:** 10 December 2020

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(For all enquiries)

WARD(S): All

PART I FOR INFORMATION

LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN – COMPLAINTS, FINDINGS, OUTCOMES & LESSONS LEARNT

1 Purpose of Report

The purpose of this report is to update the Committee on complaints to the Local Authority and Social Care Ombudsman (“the Ombudsman”) published by the Ombudsman, since the last report to the Committee on this subject on 3 August 2020.

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) Risk Management

Recommendation from section 2 above	Risks/Threats / Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
Request to note the report	Reputational damage to the Council of findings of maladministration by the Ombudsman	Receipt of reports from the Ombudsman by the Chief Executive, oversight by	Legal & Regulatory Risk. Likelihood is and very low and the impact	No further controls

	and risk of payment of compensation pursuant to his recommendations.	Audit & Corporate Governance Committee and Monitoring Officer consent to any payment of compensation pursuant to a recommendation of the Ombudsman.	is negligible. The Risk Score is 2.	
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(c) 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 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.

(d) Equalities Impact Assessment

No need to conduct an Equality Impact Assessment is identified from the matters contained in this Report.

(e) Workforce

There are no workforce implications arising from this Report.

5 Supporting Information

5.1 On 26 March 2020 the Ombudsman announced that he had suspended all casework activity that demanded information from, or action by, local authorities, in the light of the current coronavirus outbreak. The Ombudsman took this step in the wider public interest to protect the capacity of local authorities to deliver vital frontline services during the outbreak. He indicated he would not be asking councils to answer enquiries on new or existing cases for the time being and cases still in progress would be frozen until normal service resumed but he would take into account any delays when considering whether complaints had been brought within the normal 12 month time limit specified in the legislation.

5.2 On 3 July 2020 the Ombudsman announced that he had opened up to new complaints on 29 June 2020 and resumed existing casework with all councils. He recognised, however, that Covid-19 had had a major and long-lasting effect on a range of council services and normal services may have been significantly and unavoidably disrupted during the period of crisis and national emergency, and that he would take this into account in his investigations. He also recognised new legislation and government guidance was issued in response to the Covid-19 outbreak and that this guidance had been changed and updated and continues to be updated and he would formally consider whether this legislation and guidance was followed in particular circumstances.

5.3 The following table summarises the complaints, findings, outcomes and lesson learnt in relation to complaints made to the Local Government and Social Care Ombudsman, concerning the Council, since the last published findings reported to the Committee on 3 August 2020.

No.	Council Function Involved	Nature of complaint	Findings, recommendations, outcome and lessons learnt
1	Education – School Places and Appeals	The parent of a child seeking a school place for his daughter complained about the way the Council dealt with his application for and his appeal about a place at a particular	Findings: The parent applied for a place in reception for his daughter, expressing a preference

		school.	<p>for two schools, and specifying the first choice. Both schools were over subscribed and did not offer him a place. The Council considered the application and offered him a place at another school. He rejected the offer on the grounds that the school was over three miles away. When he contacted the Council they wrongly told him it was only 0.38 miles away from his home. The Council agreed to write to him with an explanation for this error but did not do so. He appealed against the refusal of a place at his first choice. He further complained that the Council provided him and the Appeal Panel with incorrect information before the appeal hearing. At the hearing the Council agreed wrong information was provided and the hearing was adjourned but the parent was not provided with the corrected information before the hearing was resumed and so did not have time to consider the revised information or prepare for the resumed hearing. The Appeal Panel acknowledged the parent's concerns about the late changes to the information provided but was satisfied the Council had correctly calculated the distances and that he had not provided any evidence</p>
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			<p>that the updated information affected his appeal. The appeal was refused.</p> <p>The Ombudsman found that there was fault in the Council providing in accurate information but that the complainant was able to comment upon and challenge the incorrect information. There was no evidence he would have changed or added to the information he provided had he received the correct information earlier.</p> <p>Outcome:</p> <p>Finding that the errors in the appeals process amounted to fault but were not such that they called into question the Panel's decision to disallow the appeal. It was not appropriate, therefore, to recommend a further appeal hearing.</p> <p>Lessons Learnt:</p> <p>Care needs to be exercised to ensure that correct and timely information is provided to parents in advance of hearings of appeals before the School Places Appeals Panels.</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.