



ARTICLE NO:

**CORPORATE AND ENVIRONMENTAL
OVERVIEW AND SCRUTINY
COMMITTEE**

**MEMBERS UPDATE - 2019/20
ISSUE: 2**

Article of: Borough Solicitor

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SUBJECT: LOCAL GOVERNMENT OMBUDSMEN – STATISTICS 2018/19

Wards affected: Borough wide

1.0 PURPOSE OF ARTICLE

1.1 To inform Members of the Council's performance in respect of the Local Government Ombudsmen statistics 2018/19.

2.0 BACKGROUND

- 2.1 The Council is overseen by two ombudsmen following changes brought about by the Localism Act 2011.
- 2.2 The Housing Ombudsman (HO) deals with complaints by Council housing tenants about matters such as estate management, repairs to Council house properties, rent and service charges, possession proceedings and mutual exchanges.
- 2.3 The Local Government and Social Care Ombudsman (LGSCO) deals with all other complaints against the Council across all the services it provides, including complaints by Council housing tenants about matters such as housing improvement grants, homelessness and statutory noise nuisance. The Council's response to enquiries and complaints received from the LGSCO and the HO are co-ordinated by the Deputy Borough Solicitor.
- 2.4 In July 2019 the LGSCO published an annual review letter which provides a summary of statistics on enquiries and complaints made in respect of the Council for the period 1st April 2018 to 31st March 2019. The annual review letter can be found at Appendix 1.
- 2.5 The HO does not currently publish an annual review of individual landlord performance. The Council's records indicate that the HO did not proceed to determine any complaints about the Council during 2018/19.

3.0 LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN PERFORMANCE-2018/19

- 3.1 During 2018/19 the LGSCO made decisions on 11 enquiries and complaints about the Council.
- 3.2 Of those 11 matters, 6 were referred back to the Council for local resolution (because the Council had not had an opportunity to properly consider the enquiry or complaint) and 4 were closed after initial enquires. Only 1 complaint proceeded to an investigation (Appendix 2).
- 3.3 This complaint concerned the construction of a barn on agricultural land near to the complainant's property. Certain agricultural developments benefit from a grant of planning permission from central government. Such permission, called permitted development, does not require a full planning application to be submitted to the Council for approval. Instead applicants are required to submit a prior notification application. Unlike standard planning applications, when considering an application for agricultural permitted development, the Council does not consider material planning considerations. It can only consider the siting, design and external appearance of the proposed building. With regard to this application the Council did not state on its decision notice whether prior approval was needed or not. This meant the decision notice was invalid and as more than 28 days had passed since the prior notification application was submitted the development was deemed lawful and the applicant was entitled to erect the barn in accordance with the submitted plans.
- 3.4 The Council accepted it was at fault for the way it handled the prior notification application. However, the LGSCO found that the Council could not prevent the construction of the barn on land near to the complainant's house had it acted without fault. The LGSCO found that the barn would have been visible from the complainant's property regardless of its location within the applicant's land. So while the Council was at fault, the LGSCO did not consider this has resulted in the injustice to the complainant. In addition, the LGSCO was satisfied that since identifying the fault the Council has changed its procedures to ensure it follows the correct approach to prior notification applications in future.
- 3.5 Using information provided by the LGSCO I have prepared a table (Appendix 3) to allow a comparison of the Council's performance with the 11 other non-unitary district councils within Lancashire. Of the 11 other non-district unitary councils, 6 had at least one complaint upheld, whilst 5 had no upheld complaints.

4.0 SUSTAINABILITY IMPLICATIONS

- 4.1 There are no significant sustainability impacts associated with this article and, in particular, no significant impact on crime and disorder.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 5.1 Investigating and co-ordinating responses to enquiries and complaints made to the Ombudsmen takes officer time both for the Deputy Borough Solicitor and for the service area to which the complaint or enquiry is directed. Given the importance to the Council in satisfactorily resolving enquires and complaints made by service users this work stream will continue to receive a high priority.

6.1 RISK ASSESSMENT

- 6.1 This article is for information only and makes no recommendations. It therefore does not require a formal risk assessment and no changes have been made to risk registers as a result of this article.

Background Documents

There are no background documents (as defined in Section 100D (5) of the Local Government Act 1972) to this Article.

Equality Impact Assessment

This article is for information only and does not have any direct impact on members of the public, employees, elected members and/or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix 1: Local Government and Social Care Ombudsman – Annual Review Letter – West Lancashire Borough Council – 2018/19

Appendix 2: Ombudsman Decision: Complaint 17 017 480

Appendix 3: Local Government and Social Care Ombudsman - Table of Detailed Investigations – Lancashire Non-Unitary Councils – 2018/19