

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Audit & Corporate Governance Committee **DATE:** 30 July 2019

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

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**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 20 September 2018.

##### **2 Recommendation(s)/Proposed Action**

The Committee is requested to note the contents of this report and the Council's actions consequent upon the Ombudsman's findings and recommendations.

##### **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 save as appear below in paragraph 5.4.

###### **(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.

###### **(c) Equalities Impact Assessment**

There is no identified need for an EIA arising from the subject matter of this Report.

## 5 Supporting Information

5.1 Under the Local Government Act 1974 the Local Government and Social Care 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.

5.2 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.

5.3 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 vices or constitutional concerns to the Monitoring Officer as soon as reasonably practicable.

5.4 The following table summarises the complaints, findings, recommendations and outcomes in relation to complaints made to him concerning the Council since the last report to the Committee on this subject on 20 September 2018. Item 1 in this table updates the Committee on a complaint where the Ombudsman exceptionally withdrew his previous determination and agreed to issue a new one. The subsequent items relate to new complaints. There was 9 other complaints to the Ombudsman which were closed by the Ombudsman and not pursued by him following initial enquiries.

<b>No.</b>	<b>Nature of complaint</b>	<b>Council Function Involved</b>	<b>Findings, recommendations and outcome</b>
1	Complaint related to a child with Special Education Needs. The complaint was that a care package was removed without notice and not restored for two years, that transport provision was lost, that a social	Children's Services	The Local Government and Social Care Ombudsman has not issued a new determination as at the date of this Report.

	<p>worker was not appointed, that an EHC Plan (Education, Health &amp; Social Care Plan) was initially not issued and then a poor EHC Plan was issued.</p> <p>This complaint was adjudicated previously by the Local Authority and Social Care Ombudsman and reported to the Committee at its meeting on 8 March 2018. The decision recommended that the Council apologise and pay the complainant £1,350 for loss of contact and socialisation and should the Council fail to restore speech therapy sessions then the Council should pay the Complainant £100 per month until sessions were restored.</p> <p>The Complainant, however, requested the Ombudsman to reconsider his decision and, exceptionally, the Ombudsman agreed to do so on 28 March 2018. He withdrew his previous decision.</p>		
2	<p>The Complainant related to the activities of the Council's Food Hygiene Inspectorate. The complainants' complaints were about the way they were treated by Council staff during an inspection, that they were not informed of the result of an internal investigation into their complaint about staff behaviour and about the manner in which the outcome of the inspection</p>	Regulatory Services	<p>The Ombudsman determined that the Council dealt appropriately with the complaint about the conduct of staff in accordance with its policy and that it informed the complainants that the consequences to staff would not be disclosed to them in order to protect</p>

	<p>was publicised by the Council on social media, which they alleged cost them business and caused them distress.</p>		<p>confidentiality in accordance with its policy. The ombudsman found that he had no power to procure the consequences for staff that the complainants desired and he did not therefore pursue this matter further.</p> <p>The ombudsman found that the Council were entitled to publicise its decision to close the business but found that the Council overstated the level of problems found which was not supported by the Council's records of the inspection. The Council's publicity was, therefore inaccurate. The Ombudsman recommended that the Council apologise for this inaccuracy and that it should develop a social media policy to ensure their social media posts are appropriate accurate and fair.</p> <p>The Council will comply with these recommendations</p>
3	<p>The complaint in this case was that the Council failed to consider parents' application for home to school transport for their child properly as the Council had not taken</p>	<p>Education Services</p>	<p>The Ombudsman determined that the council was at fault in the manner in which it considered the application and subsequent appeal</p>

	<p>proper account of the child's disability and family circumstances and this was causing the child to be late to school and was causing stress to the parents.</p>		<p>and that the Council's school transport policy was flawed. He recommended that the council arrange a fresh appeal hearing and review and revise its school transport policy.</p> <p>In the event, the Council have granted the parent's application before the hearing of the fresh appeal and are in the process of seeking legal advice and reviewing revising their school transport policy.</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.