

Report to Cabinet

Subject: Decision of Ombudsman following complaint against the Council

Date: 30 January 2020

Author: Monitoring Officer

Wards Affected

Borough wide

Purpose

This report is to inform Members of a finding of maladministration with injustice by the Local Government and Social Care Ombudsman (“the Ombudsman”) against Gedling Borough Council in response to a complaint by Mr X with regard to the Council’s failure to make assisted refuse collections from his house.

Key Decision

This is not a key decision

Recommendations

THAT:

- 1. The Ombudsman’s decision at Appendix 1 and progress regarding implementation of the recommendations be noted;**
- 2. It be noted that a copy of this report has been circulated to all members of the Council;**
- 3. It be agreed that the further action set out in this report be taken; and**
- 4. A report be prepared on behalf of the Executive setting out the action to be taken and reasons for it be prepared.**

1 Background

1.1 Members are aware that if an individual is dissatisfied with the service provided by the Council he/she may complain under the Council’s

Complaints, Compliments and Comments Policy. If the complainant exhausts the Council's complaints process and is unhappy with the response at Stage 2 he/she is entitled to refer the complaint to the Ombudsman. If the Ombudsman decides to investigate a complaint he will determine whether, in his opinion, the Council has been guilty of "maladministration" and if so whether the complainant has sustained "injustice" in consequence.

- 1.2 Section 5A of the Local Government and Housing Act 1989 imposes a duty upon the Monitoring Officer to prepare a report to the Executive if at any time it appears to her that there has been maladministration in the exercise of its functions. The duty does not arise unless the Ombudsman has conducted an investigation. The Monitoring Officer must consult the Head of Paid Service and Chief Financial Officer in the preparation of a section 5A report and provide a copy to each Member of the Council.
- 1.3 As soon as practicable after the Executive has considered the Monitoring Officer's report it must prepare a report which specifies:-
 - (a) What action (if any) the Executive has taken in response to the Monitoring Officer's report,
 - (b) What action (if any) the Executive proposes to take in response to the report, and
 - (c) The reasons for taking the action or for taking no action.

2 Proposal

- 2.1 This report relates to a complaint by Mr X that the Council has often failed to make assisted refuse collections at his house over the past year. A copy of the Ombudsman's decision in relation to this complaint is self-explanatory and is attached at Appendix 1. The Ombudsman has confirmed that this complaint will be included in the published figures for the year ending 31 March 2020. It will be recorded as: Environmental Services & Public Protection & Regulation and the decision as: Upheld: maladministration and injustice.
- 2.2 When determining the complaint the Ombudsman made the following recommendations:

"22. Within one month of my final decision the Council will:

 - Apologise to Mr X for the inconvenience caused by its repeated failure to correctly collect his waste as agreed by the assisted collection service.
 - Refund Mr X's £36 fee for garden waste collection for 2018-2019.
 - Remind waste collection crews of the importance of complying with assisted collection services.

23. Over the next three months after the date of my final decision the Council will monitor Mr X's assisted collections and provide him and the Ombudsman with a report after three months, explaining any missed collections, and action taken as a result."

The apology, refund and reminder have already been issued and the assisted collection service for Mr X is currently being monitored. It is proposed that Members note the decision and recommendations of the Ombudsman and that the actions recommended are either completed or in progress.

2.3 In order to ascertain whether additional actions need to be taken further initial data analysis has been carried out. This has identified that on 778 occasions between 1 April and 16 December 2019 customers contacted the Council to report that their assisted collection service was not provided. Members should be aware that the number of contacts referred to above represents around 0.04% of the total number of bins collected during this period. The data analysed also shows that around 30% of the occasions were reported by the crews to be either behind a locked gate or not left at the agreed pull out location which is the reason why the assisted collection was not provided. Further analysis of the addresses that have made contact on a number of occasions during that period shows that the garden waste assisted collections were missed more often than general, recycling and glass collections. The data analysis does not however identify that a high number of missed assisted collections are taking place in a particular area or round.

2.4 Individuals can ask the Council to provide an assisted bin collection service because they find it difficult to put the bin out for collection, for example due to a disability or frailty. The Council currently provides an assisted collection service to 2,020 households, which equates to over 3% of the total number of households in the borough. This appears to be a fair proportion when compared to APSE benchmarking data, which shows that for participating authorities the average percentage of households receiving an assisted collections is:

2015/16 – 4.5%
2016/17 – 3.1%
2017/18 – 3.0%

2.5 In relation to process the general, recycling and glass rounds are managed via the Bartec System where the in cab device alerts the crew with a hand icon for addresses with an assisted collection, however the garden waste collections are printed from an in-house system and passed to the crew as a paper copy to mark off as the collections are made. All missed collections

whether general, recycling, glass or garden are entered into the Bartec System for the crew to return. It is therefore proposed that to improve the collection of garden waste, the garden waste schedules should be added to the Bartec System so these collections are dealt with in the same way as the general, recycling and glass collections. A process should also be put in place to ensure that crews record the reason that an assisted collection is not provided on every occasion: this could be for example because the road is blocked, bin is contaminated or bin is inaccessible. Crews should also be reminded about missed assisted collections as soon as they are reported by the customer to avoid future occurrences of multiple reports at the same address. Some additional analysis of the data should be carried out to identify whether further action should be taken to improve the assisted collection service.

3 Alternative Options

- 3.1 In view of the fact that the Ombudsman has categorised the complaint as “Upheld: maladministration and injustice”, the statutory process for reporting the decision must be followed.
- 3.2 The Executive could decide to take no action other than to implement the recommendations made by the Ombudsman. This could however result in the Council receiving further complaints and there being further instances of maladministration in the exercise of this function. The Executive could also decide to take a different course of action to that recommended in the report, however it is considered that the actions proposed are appropriate based on the data considered.

4 Financial Implications

- 4.1 If further complaints are made to the Ombudsman on the same grounds the Council could be asked to refund fees for the garden waste collection for other affected properties and make payments of compensation.

5 Appendices

- 5.1 Appendix 1 – Copy of Ombudsman’s decision.

6 Background Papers

- 6.1 None identified.

7 Reasons for Recommendations

- 7.1 To comply with the provisions of the Local Government and Housing Act 1989.

7.2 To improve the assisted collection service and avoid any further complaints or instances of maladministration in the exercise of this function.