

## **Report to Cabinet**

**Subject:** Decision of Ombudsman following complaint against the Council

**Date:** 5 August 2021

**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 Ms X with regard to the way the Council communicated its housing review decision to Ms X in September 2020.

### **Key Decision**

This is not a key decision

### **Recommendations**

#### **THAT:**

- 1. The Ombudsman's decision at Appendix 1 be noted;**
- 2. It be noted that a copy of this report has been circulated to all members of the Council;**
- 3. A report be prepared on behalf of the Executive setting out the action to be taken and reasons for it being 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 Ms X about the Council’s assessment of her priority on the Housing Register and her bids for social housing. The Ombudsman concluded that there was fault in the way the Council communicated its housing review decision to Ms X in September 2020. The Ombudsman noted that the Council apologised for this error and took steps to improve the quality of review letters, and as such the Ombudsman has not suggested any further remedy. The Ombudsman only upheld this element of the complaint. The Ombudsman found no fault in the decision in relation to priority banding or the way in which the complainant’s bids for properties were considered and ranked. 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 2022. It will be recorded as: *Housing and the decision as: Upheld: maladministration and injustice – no further action, satisfactory remedy provided by the organisation.*
- 2.2 Prior to the Ombudsman decision being issued, the Council had reviewed and updated the content of the Housing Band Review letters and had issued an apology to the complainant for the errors in the letter sent to her

about her banding review in September 2020. Housing Review letters have now been updated to ensure that clear reasoning is given for any banding review decision and that any evidence taken into account in making the decision is referenced in the letter.

### **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 and the Executive are required to prepare a report specifying any particular actions required as a consequence of this report. The Executive may determine that no further action is required by the Council in line with the Ombudsman’s decision, or may propose alternative action in response to the report.

### **4 Financial Implications**

- 4.1 There are no financial implications arising from this report.

### **5 Legal Implications**

- 5.1 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. This report must be provided to all members of the Council and considered by the Executive within 21 days of the report being circulated.

### **6 Equalities Implications**

- 6.1 There are no direct equalities implications arising from this report.

### **7 Carbon Reduction/Environmental Sustainability Implications**

- 7.1 There are no carbon reduction/environmental sustainability implications arising from this report.

### **8 Appendices**

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

### **9 Background Papers**

- 9.1 None identified.

### **10 Reasons for Recommendations**

- 10.1 To comply with the provisions of the Local Government and Housing Act

1989.

- 10.2 To improve the Housing Needs Service and avoid any further complaints or instances of maladministration in the exercise of this function.

**Statutory Officer approval**

**Approved by Chief Financial Officer**

**Date:** 23 July 2021

**Written by:** Monitoring Officer

**Date:** 22 July 2021