

Report to Cabinet

Subject: Decision of Ombudsman following complaint against the Council

Date: 17 February 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 Mr M with regard to the way the Council handled his application for a Covid-19 business grant in February 2021.

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 Mr M about the way the Council handled his application for an Additional Restrictions Grant (ARG) one of several Covid-19 business grant schemes administered by the Council. Mr M’s application for this grant was refused by the Council as he did not satisfy one of the mandatory criteria for the grant, namely, from evidence submitted the Council concluded that his business was not trading on 1st October 2020. Ultimately, the Ombudsman, following investigation, determined that there was no fault in how the Council considered the complainant’s application for ARG, as it was entitled to decide the evidence did not support his eligibility. There was also no fault found in how the Council decided his other grant applications. However, on 2 March 2021, during the application process, Mr M was sent, in error, an email, which was sent in bulk to several applicants. The email invited him to apply for a different grant on the basis he had been awarded ARG. At the point the email was sent out, the Council had not in fact made a determination in relation to Mr M’s ARG application. Mr M queried the email, and the Council sent out an email the following day apologising for the error and confirming that his application for ARG was still pending determination. The Ombudsman did conclude that the Council was at fault for wrongly telling the complainant his application had been successful, but

concluded that the Council's quick rectification and apology for this error was an adequate remedy.

The Ombudsman:

- Noted that the Council acted quickly to rectify and apologise for the email sent in error on 2 March 2021.
- Has not suggested any further remedy, due to the actions already taken by the Council.
- Only upheld this element of the complaint.
- Found no fault in the way the Council had considered Mr M's application for ARG, or any of his other grant applications.
- Found that whilst there was some delay in determining the ARG application, this was partly down to requiring additional information from Mr M and the delay was not considered to be a significant point.

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: *Benefits & Tax and the decision as: Upheld: Maladministration and Injustice – no further action, satisfactory remedy provided by the organisation.*

- 2.2 In light of the Ombudsman's findings, it is proposed that Cabinet consider what further action, if any should be taken in relation to this matter and that a report of the Executive be subsequently circulated setting out what action, if any is required. It should be noted that the ARG process was administered by Revenues Services with support and advice from Financial Services. This was one of a number of grant schemes that the government introduced to alleviate pressure on businesses resulting from the Covid-19 pandemic.

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 propose any action to be taken by the Council to avoid any further complaints or instances of maladministration in the exercise of this function.

Statutory Officer approval

Approved by:

Chief Financial Officer

Date:

Written by:

Monitoring Officer

Date: