



Report to Cabinet

Subject: Decision of Ombudsman following complaint against the Council

Date: 16 June 2022

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 D about missed garden waste collections in 2020 and 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 D about repeatedly missed garden waste collections by the Council during 2020 and 2021. Mr D initially complained to the Council in July 2020 in relation to his garden waste bin being missed for collection on two occasions. The Council issued a stage one response apologising and indicating that the Covid-19 pandemic had caused some service disruption to collections. The Council confirmed that the waste supervisor would speak to crews and monitor collection from the property on a weekly basis. Mr D made a second stage complaint to the Council in September 2021 about further missed garden waste collections. Mr D complained that he was having to call or message the Council for every alternate collection, and was given different reasons why the bin was not collected including obstruction of the street, which he felt was incorrect. The Council sent a second stage response to the complainant on 1 October 2021 again apologising for the service disruption and agreeing that there were no obstructions causing missed collections and that repeated requests for collections should not have to be made. The Council stated that the problem had been with the briefing of collection crews. Mr D then made further reports of missed collection in October and November 2021 and escalated his complaint to the Ombudsman.

- 2.2 The garden waste collection service is a paid for service, whereby fortnightly collections of garden waste are undertaken by the Council. The process for collection is that supervisors provide daily route sheets to crews showing which properties require collection. If a crew are unable to make a collection for certain reasons for example blocked streets, this should be reported by the crew and recorded on the waste management system, this report would then trigger a re-collection within 5-7 working days. Where repeated missed collections are reported by a customer, either online or by telephone these should be flagged to a waste supervisor who would speak to crews and issue a memo to ensure collection. The Council confirmed in response to the Ombudsman's investigation that through 2020 and 2021, due to Covid-19, the waste collection service had been operating with reduced resource and had utilised staff who were unfamiliar with collection routes and reporting systems leading to some missed collections. The Council accepted that the service was not satisfactory and did offer a reimbursement of garden waste charges to Mr D for 2020 and 2021 following the Ombudsman's involvement. Additional training was also given to crews to prevent future incidents.
- 2.3 The Ombudsman did conclude that the Council was at fault for missing Mr D's garden waste collections repeatedly in 2020 and 2021 and that as a result he had suffered injustice, namely he had incurred unnecessary time and trouble pursuing missed collections. The Ombudsman accepted that there had been issues with the service and staffing of the service during this period which resulted in missed collections, but also concluded that the Council had given false reasons for failed collections to Mr D and had failed to escalate supervision of the route following several missed collections. The Ombudsman, during the investigation process acknowledged that the Council had agreed to reimburse garden waste fees to this customer for 2020 and 2021 and proposed that £100 compensation be paid to the customer for the trouble incurred in repeatedly reporting missed collections. The compensation and refund were paid by the Council to the complainant prior to the Ombudsman's final report being issued. There are no further recommendations from the Ombudsman in relation to this complaint as compensation was paid and training provided to waste crews.
- 2.4 A copy of the Ombudsman's decision in relation to this complaint is self-explanatory and is attached at Appendix 1. The Ombudsman wrote to the Council again on 17 May 2022 confirming that the Council have complied with the remedy proposed in this matter as the compensation has been paid.
- 2.5 It should also be noted that there is currently, a review of the waste management software system and associated administrative processes underway. A business case is being finalised in relation to the procurement

of a new waste management system which will improve the process of reporting missed bins by crews, through improved in cab reporting. This should reduce the need for customers to self-report missed collections as any issues will be captured during rounds and logged on the system. In the interim, a review of the waste service complaints management process is also being completed to identify and secure ongoing service improvements.

- 2.6 In light of the Ombudsman's findings and the action outlined above, 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.

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, or may propose alternative action in response to the report.

4 Financial Implications

- 4.1 The compensatory payments were made from existing budgets in 2021/22. There are no other direct financial implications arising from this report. The business case for the replacement waste management system is currently being finalised and procurement is expected to commence during quarter 2.

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: