

Report to Cabinet

Subject: Decision of the Local Government Ombudsman

Date: 25 March 2015

Author: Council Solicitor and Monitoring Officer

Wards Affected

Not applicable.

Purpose

To notify the Executive that the Local Government Ombudsman has made a finding of maladministration in respect of the way the Council handled Council Tax demand for a rented property.

Key Decision

This is not a Key Decision

Background

- 1.1 Members will recall that the Local Government Ombudsman (LGO) decided to re-categorise complaints with effect from 1 April 2014. As a result of this change in decision reasons, complaints which would previously have been categorised as “local settlement” or “investigation complete and satisfied with authority actions or proposed actions and not appropriate to issue report” will now be categorised as “maladministration”. As a result, this triggers the obligation on the Monitoring Officer to prepare a report under Section 5 of the Local Government and Housing Act 1989 (in the case of non-executive functions) or Section 5A (in the case of executive functions). The Act requires the Chief Executive as Head of Paid Service and the Corporate Director as s.151 Officer to be consulted as far as reasonably practicable in the preparation of such a maladministration report. Both statutory officers have been duly consulted.
- 1.2 Following an investigation, the LGO concluded that there has been fault by the Council in the way in which it handled a council tax demand for a property the complainant owns and rents out and which caused the complainant injustice. The LGO recommended payment of £100.00 compensation as an appropriate remedy. The Council agreed to make this

payment and the payment has already been made. The statement of reasons summarising the complaint and setting out the LGO's final decision appears at Appendix 1 to this report.

The LGO will include this complaint in the published figures for the year ending 31 March 2015. The decision will be recorded as: Benefits & Tax Upheld: maladministration and injustice and will appear in the annual report which will be reported to Cabinet in due course.

- 1.3 This complaint arose as a result of a clerical error. Unfortunately, these are inevitable in view of the fact that the Service administers 52,000 council tax accounts. However it is rare for an error not to be picked up and corrected during the various stages of the process. Officers are confident that the policies and procedures are robust and that this is unlikely to occur again.
- 1.4 Members should note that before referring the matter to the Ombudsman, the complaint went through the Council's complaints procedure. Officers accepted that the complainant had not received the service he was entitled to and apologised for this in both the first stage and second stage responses. In addition, Officers agreed to cancel the recovery action taken and the costs (including enforcement agents' fees) and confirmed that the Council would not pursue the outstanding council tax liability of £38.01. The Service Manager also discussed the case with his Revenues Manager and Client Officer to ensure that other taxpayers do not have the same experience.
- 1.5 Under sections 5A of the Act the Monitoring Officer is under a duty to present a report to Cabinet in the event of a finding of maladministration in respect of an executive function. Cabinet is under a duty to consider that report and prepare a report which specifies:-
 - (a) what action (if any) the executive has taken in response to the report;
 - (b) what action if (any) the executive proposes to take and when;
 - (c) the reasons for taking the action or, as the case may be, for taking no action.
- 1.6 The Monitoring Officer is also obliged to arrange for a copy of the report to be circulated to all members. In order to comply with this, a copy of this Cabinet report will be provided to all members of the Council.

Proposal

- 2 It is proposed that Cabinet:
 - a) Notes the Local Government Ombudsman's findings and endorses the steps already taken by Officers by way of offering a remedy;

- b) Agrees that no further action needs to be taken in relation to the matter set out in this report; and
- c) Notes that a copy of this Cabinet report has been circulated to all members of the Council.

Alternative Options

- 3 In view of the fact that the LGO has categorised the complaint as Upheld: maladministration with injustice, the statutory process for reporting the decision must be followed. The Council does not legally have to follow the LGO's recommendations, but the Corporate Director has agreed that it is appropriate to do so.

Financial Implications

- 4 None arising from this report.

Appendices

- 5 Appendix 1 – Local Government Ombudsman statement of reasons.

Background Papers

- 6 None identified.

Recommendations

THAT Cabinet:

- a) Notes the Local Government Ombudsman's findings and endorses the steps already taken by Officers by way of offering a remedy;
- b) Agrees that no further action needs to be taken in relation to the matter set out in this report; and
- c) Notes that a copy of this Cabinet report has been circulated to all members of the Council.

Reasons for Recommendations

- 7.1 To comply with the provisions of the Local Government and Housing Act 1989.
- 7.2 To confirm that the steps already taken represent an appropriate remedy.