



Full Council	Tuesday, 04 June 2019	Matter for Information and Decision
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Report Title: **Finding of Maladministration by the Local Government and Social Care Ombudsman**

Report Author(s): **David Gill (Head of Law & Democracy / Monitoring Officer)**

Purpose of Report:	To advise Members of the decision of the Local Government and Social Care Ombudsman ("the Ombudsman") of a finding of maladministration and for Members to determine what action to take in response to the Ombudsman's recommendations.
Report Summary:	The report sets out Officers views in respect of the findings of the Ombudsman and invites Members to consider which of the alternative recommendations they wish to adopt.
Recommendation(s):	<p>A. That the report of the Ombudsman is noted and that Members agree to the recommendations as set out in the Ombudsman's report: or</p> <p>B. That the report of the Ombudsman is noted and that Members determine to take no action on the recommendations as set out in the Ombudsman's report: or</p> <p>C. That the report of the Ombudsman is noted and Members instruct the Head of Law and Democracy / Monitoring Officer to take legal advice on the possibility of action to set the findings of the Ombudsman aside.</p>
Senior Leadership, Head of Service, Manager, Officer and Other Contact(s):	<p>Anne Court (Chief Executive / Head of Paid Service) (0116) 257 2602 anne.court1@oadby-wigston.gov.uk</p> <p>David Gill (Head of Law & Democracy / Monitoring Officer) (0116) 257 2626 david.gill@oadby-wigston.gov.uk</p>
Corporate Objectives:	Not applicable
Vision and Values:	Accountability (V1) Customer Focus (V5)
Report Implications:-	
Legal:	The implications are as set out at paragraph 4 of this report.
Financial:	The implications are as set out at paragraph 2.2.1 of this report.
Corporate Risk Management:	Reputation Damage (CR4) Regulatory Governance (CR6)
Equalities and Equalities Assessment (EA):	There are no implications arising from this report.
Human Rights:	There are no implications arising from this report.

Health and Safety:	There are no implications arising from this report.
Statutory Officers' Comments:-	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Monitoring Officer:	As the author, the report is satisfactory.
Consultees:	None
Background Papers:	None.
Appendices:	1. Copy of the Final Report of the Local Government and Social Care Ombudsman

1. Background

- 1.1 In May 2018, the Ombudsman determined to investigate an on-going homeless application that the Council was dealing with.
- 1.2 That investigation concluded with the issue by the Ombudsman of its final draft report dated 19 April 2019.
- 1.3 A copy of the final report of the Ombudsman is attached at **Appendix 1**.

2. Findings

- 2.1 At the conclusion of the report, the Ombudsman found fault causing injustice with the way that the Council had dealt with the application and made a number of recommendations:
- 2.2 To remedy the injustice caused, the Council should:
 - 2.2.1 Apologise, and pay £500 to Ms X, within three months of the date of the report. This is to recognise the injustice caused to the family by the faults identified by the Ombudsman. The Council should provide evidence to us of its apology letter and payment;
 - 2.2.2 Provide training to the housing staff to ensure they can identify when a homelessness application should be taken. This should be done within three months of the date of the report and evidence provided to the Ombudsman when completed; and
 - 2.2.3 The Ombudsman has also required the Council to consider the report and confirm within three months the action what it has taken or proposes to take in response to the report and provide evidence of that consideration to the Ombudsman.
- 2.3 The Ombudsman has also decided that the Council must publish a notice in a local newspaper on two separate occasions setting out the finding of fault.
- 2.4 It should be noted however that the Ombudsman found no fault with the timeliness of the decisions about whether the conditions for referral were met and accepted that the Council was entitled to reject those referrals as being

incomplete, and neither did it find any fault with regard to a complaint about the suitability of the temporary accommodation that was ultimately offered to the applicant.

3. Discussion

- 3.1 Officers have considered the report of the Ombudsman in detail and it is the view of the Head of Law & Democracy, the Housing Services Manager and an external lawyer engaged on behalf of the Council to review its response(s) to the Ombudsman, that the investigator acting on behalf of the Ombudsman has misdirected herself as to the law.
- 3.2 It is Officers' view that where the homeless application is as a result of a referral from another authority (Authority A) there is no requirement in law for the receiving authority (Authority B) to take a further homeless application from the person being referred as the initial application made to Authority A is deemed to be treated as if it were made direct to Authority B if the referral is accepted.
- 3.3 Officers have raised their opinion on two separate occasions with the investigator who has declined to amend her findings.

4. Options

- 4.1 Members will note from the cover sheet of the Ombudsman's report that the Ombudsman has no power to force a Council to accept the recommendations that it has made. Members will also note from paragraph 2.3 above that irrespective of the decision taken at this meeting, the Ombudsman requires the Council to publish notices setting out the finding of fault causing injustice.
- 4.2 It is against that background that Members will need to reach a determination on which of the alternative recommendations outlined above they wish to adopt, which for ease of reference are set out in full below:
 - 4.2.1 That the report of the Ombudsman is noted and that Members agree to the recommendations as set out in the Ombudsman's report: or
 - 4.2.2 That the report of the Ombudsman is noted and that Members determine to take no action on the recommendations as set out in the Ombudsman's report; or
 - 4.2.3 That the report of the Ombudsman is noted and Members instruct the Head of Law & Democracy / Monitoring Officer to take investigate legal action to have the findings of the Ombudsman set aside.