

**TO: OVERVIEW AND SCRUTINY COMMISSION
19 NOVEMBER 2015**

**COMPLAINTS AGAINST BRACKNELL FOREST COUNCIL IN 2014/15
Assistant Chief Executive**

1 PURPOSE OF DECISION

- 1.1 To brief the Overview and Scrutiny Commission about complaints made against the Council in 2014/15, as part of the ongoing work to be responsive to residents' concerns, in pursuit of Medium Term Objective 11, a key action for which is, 'publish information about the Council to promote openness and cost-effectiveness and accountability'. The report below was endorsed and noted by the Executive at its meeting on 22 September 2015.

2 RECOMMENDATIONS

That the Overview and Scrutiny Commission notes:

- 2.1 **The approach taken to dealing with and learning from complaints to the Council;**
- 2.2 **The Annual Review letter of the Local Government Ombudsman to the Council for 2014/15;**
- 2.3 **The information on other complaints against the Council in 2014/15; and**
- 2.4 **The developments in complaints handling.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 This report gives the O&S Commission information on an important aspect of the Council's services to residents, in keeping with the Council's Charter for Customers, which includes always putting the customer first, learning from feedback, and continually aiming to improve the Council's service and performance.
- 3.2 To support the implementation of the corporate Customer Contact Strategy, endorsed by the Council's Executive on 5 July 2011. This strategy's overarching aim is to improve the quality of customer service to residents and service users.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5 SUPPORTING INFORMATION

Annual Review Letter From the Local Government Ombudsman

- 5.1 The Local Government Ombudsman (LGO) has statutory powers under the Local Government Act 1974 to investigate complaints of injustice arising from maladministration by local authorities. The LGO investigates complaints about most council matters including housing, planning, education, social services, consumer protection, drainage and council tax. The objective of the LGO is to secure, where appropriate, satisfactory redress for

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complainants and better administration for the authorities. Since 1989, the LGO has had power to issue advice on good administrative practice in local government based on experience derived from their investigations.

- 5.2 The LGO usually requires complainants to give the council concerned an opportunity to deal with a complaint against it first, using the council's own complaints procedure, and if this has not been done, the LGO deems such complaints to be 'premature'. If the complainant is not satisfied with the action the council takes, he or she can complain to the LGO, or ask a councillor to do so on their behalf. The LGO's Annual Letter is therefore an important, independent 'barometer' of the effectiveness of the Council's complaints resolution process and service to residents generally.
- 5.3 Within the Council, the Chief Executive's Office co-ordinates the responses to any complaints referred from the LGO to the Council in liaison with departmental officers, and acts as the main contact point with the LGO.
- 5.4 The LGO's Annual Review Letter to the Council for 2014/15 is attached at Appendix 1. Drawing on this, also other published and internal information, notable points are:
- a) The 18 complaints received by the LGO against the Council in 2014/15 is:
 - a. Lower than the 28 complaints received in 2013/14, and similar to the annual average of 19 complaints the LGO received about the Council over the preceding three years 2010/13.
 - b. Lower than the average of 50 complaints the LGO received for all councils in 2014/15.
 - c. Lower than all other Unitary authorities in Berkshire (the next lowest being 31, and the highest being 62 complaints to the LGO).
 - b) The LGO made formal decisions on 18 complaints against the Council (some of which related to complaints from 2013/14) and decided to uphold one complaint; the circumstances of which were reported publicly to the Executive in February 2015. All other Unitary Authorities in Berkshire had one or more complaint upheld by the LGO.
 - c) In their 2014/15 Annual Report, the LGO stated, '*We upheld 46% of all complaints where we carried out a detailed investigation*'. The corresponding figure for Bracknell Forest Council was much lower, at 17%.
 - d) The Council's average speed in responding to LGO cases has remained well within the 28 days requested by the LGO.
 - e) The LGO have asked that councillors should be encouraged to make use of a workbook they have produced on supporting local people with their complaints. This has been drawn to the attention of Member Services for their consideration.
 - f) The LGO have asked that councils review their complaints procedures with reference to a new service standards document they have produced. This has been drawn to the attention of the Chief Officer: Customer Services for her consideration.
- 5.5 In summary, the number of complaints to the LGO concerning Bracknell Forest Council has fallen since 2013/14 and is low when compared to other authorities, and very low in view of the huge number of customer interactions by the Council each year. The extent to which complaints to the LGO are upheld is lower still. This continues the positive trend in recent years. Nevertheless, it must be recognised that, however few complaints are made, they are all important to the people who raise them.
- 5.6 There was a significant change in the way the LGO issued its decisions on complaints from 1 April 2014. The most notable points were:
- In cases where councils had been at fault and had made an appropriate apology and remedy, the LGO had previously usually issued the decision, '*Investigation complete and satisfied with authority actions or proposed actions and not*

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appropriate to issue report S30(1B). From April 2014, the LGO replaced this with decision wording: *'upheld/not upheld; Maladministration/No Maladministration; Injustice/no Injustice'*. The LGO has stated, *'We record a complaint as upheld when we find some fault in the way a council acted, even if it has agreed to put things right during the course of our investigation or had accepted it needed to remedy the situation before the complainant approached us.'*

- Even very minor faults can now result in an LGO decision that there was Maladministration: *'In the past, the term maladministration was often reserved for reports, where the fault is likely to have been significant. However, it is not how significant the fault is that decides whether there is maladministration. If there has been administrative fault, then it is maladministration'*.

- 5.7 The consequence of the changes is that all councils can expect to receive more LGO decisions that complaints have been upheld, and that there has been maladministration. The fairness of the changes was challenged by the Public Sector Complaints Network (a group of some 850 local authority corporate complaint managers across the UK public sector) in 2014, without success. The LGO has reported that in 2014-15 they upheld 46% of all complaints where they carried out a detailed investigation, adding that, *'This year we saw a small, yet unprecedented, increase in the number of councils that sought to challenge our decisions'*.
- 5.8 Bracknell Forest did this and it resulted in significant changes to draft decisions, including one where the LGO had initially concluded maladministration. It is very time consuming and costly challenging incorrect assessments and we will only do so on really significant cases.
- 5.9 The Borough Solicitor, as Monitoring Officer, is required by Section 5A of the Local Government and Housing Act 1989 to prepare a report to the Executive on any cases where the LGO had determined there was maladministration, and these reports are required to be copied to each Member of the Council. The LGO has acknowledged this, saying, *'While we recognise this may mean a change in your own practices and reporting arrangements, we consider this is an important step to increase the transparency and accountability of LGO'*.

Other Complaints Against the Council

- 5.10 The Council's overall complaint statistics for 2014/15, as reported by departments in their Quarterly Service Reports (QSR), shows a 25% reduction on the 2013/14 figures, and are given in Appendix 2. Individual complaints which move through the different stages are recorded separately at each stage of the process. The figures at Appendix 2 exclude complaints dealt with at the point of service, such as verbal reports to front line staff, where issues are resolved locally. No central records are kept of such stage 1 complaints. The figures also exclude complaints to schools, matters for which a right of appeal to a tribunal or other legal remedy exists, and any complaints about councillor conduct, for which there is a separate procedure. Following Executive approval, there are separate annual reports published on complaints received by Adult Social Care, also on Children's Social Care and Public Health, which are governed by statutory requirements.
- 5.11 The statistics in Appendix 2 continue to show that the majority of complaints are resolved without recourse to later stages in the process. The figure of 8 LGO complaints cases differs to the 18 in the LGO letter mainly because it excludes complaints dealt with by the LGO without reference to the Council. Officers have queried with the LGO why they no longer inform us of such cases.

Learning From Complaints in 2014/15

- 5.12 The Council's overall approach has continued, to train and empower front line staff to deal effectively with complaints at the earliest opportunity. The Council's publication, 'Comments, Compliments or Complaints about council services' was last revised and reissued in 2014, as were the Council's internal guidelines for staff on handling complaints. This revision reduced the number of levels through which a complainant can appeal a decision. This is now more in line with most other local authorities. Quarterly Service Reports, which are reviewed by Departmental Management Teams, the Corporate Management Team, the Executive and Overview & Scrutiny members, publish information on complaints and how the Council has learnt from them. Examples of this learning process in 2014/15 have included:

Adult Social Care, Health and Housing

- 5.13 Improvements in practices and processes arising from complaint investigations in 2014-15 included:
- There has been a review of procedures to ensure that there is a lead named worker co-ordinating a person's care and support.
 - A more robust supervision structure has been implemented for locum Social Workers working within Council teams, to monitor and support their work and understanding of services provided.
 - Everybody who funds their own care and support, but chooses to have the Council arrange it for them, are more clearly informed of all the implications, and the responsibilities of all parties, so that an informed choice can be made
 - The Recording Policy was improved, to incorporate timescales for individuals to receive written copies of reviews and other documentation
 - There has been a review of the role of staff undertaking reviews and how to ensure that any outstanding actions are taken forward and that individuals and their families are clear about who is taking responsibility for co-ordinating and communicating the outcomes to all significant people
- 5.14 As a result of a complaint concerning the Emergency Duty Service, the department decided to review: its guidance and procedures for investigating allegations against a volunteer Appropriate Adult (AA) ensuring staff know how to report concerns; and the frequency of feedback to volunteer AAs.
- 5.15 On housing, a number of complaints concerned customers' dissatisfaction with the response they received to their housing register applications. The lesson learnt was that the service failed to properly advise customers at the outset of the likely waiting time before their application would be successful and also the nature of the property that would be likely to become available. To address this all welfare and housing caseworkers were provided with information on the average waiting times by applicant band for different sizes of properties. Although a rough indicator, it provides better information to customers. Some complaints relating to housing pointed to a need for further customer care training around officers' understanding and awareness of the customer's position.
- 5.16 Complaints related to homelessness/housing advice indicated a lack of awareness by customers of the service the Council could offer, leading to their dissatisfaction. In order to address this, the process of advising customers on the homelessness route and what the Council can offer and how much the accommodation will cost that the council can offer, was reviewed. Advice on options and costs now begins much earlier in the process.

Corporate Services

- 5.17 A complaint was received from a customer who purchased a marriage certificate which Royal Mail subsequently failed to deliver. The complainant was unhappy that he had not been given the option to have the certificate sent by recorded delivery. Information on the website was subsequently clarified and the web forms were updated to allow for recorded delivery to be selected at the point of payment.

Children, Young People and Learning

- 5.18 Where a complaint has been difficult or complex, 'a learning from complaints' meeting is held with Senior Managers in Children's Social Care to ensure the Council is able to reflect and learn from the situation and put in place measures to reduce the risk of issues arising in the future. Examples of actions included:

- Social Workers are now asked to provide their direct email addresses to the families they work with, so that they have an alternative means of contact.
- Social Workers are encouraged to update the 'child or young person' they are working with at every step of the process involved.
- Templates are used to ensure consistencies of process and documentation.
- Managers proof read assessments before they are sent out to the family.
- Appointments for Looked After Children reviews are now confirmed by letter (not by telephone, unless this is unavoidable).

- 5.19 As a result of a complaint about children's services, it was decided to make two service improvements:

- Officers in the Family Placement Team were reminded to promptly seek appropriate alternatives for care, when a need becomes apparent.
- Officers in the Disabled Children team were reminded of the need to formally acknowledge, in writing, all correspondence.

Environment, Culture and Communities

- 5.20 Arising from a complaint about Planning, it was decided to:

- Consider the wider learning points from the case, and ensure they are applied in staff and management training;
- Expand the standard acknowledgement letter to planning applicants, concerning their right to appeal to the Planning Inspectorate if the time target was not met;
- Remind Planning Officers that they should seek to agree in writing to planning applicants any extension of the determination dates for decisions, give reasons for that request and if not agreed to determine the application with the information they hold; and
- Ensure that all requests for substantial information such as a sequential test are made within the pre-planning advice stage.

- 5.21 The learning points actioned from other complaints included:

- Clarification around taxi licensing delegation to officers
- A contractor was reminded about the correct recording of Parking charge notices
- Reviewing procedures to deal with vacant properties.

Developments in Complaints Handling and Records

- 5.22 The Corporate Management Team decided to streamline the Corporate Complaints Procedure, by reducing the number of stages from four to three, from 1 January 2015:
Stage 1: Informal complaint to member of staff
Stage 2: Formal complaint to Director of relevant service area
Stage 3: Formal complaint to Chief Executive
- 5.23 This speeded up the process for customers, whilst retaining the involvement of officers at a senior level, and the Chief Executive for the final stage. This change was accompanied by a revised procedure published for customers and revised internal guidance for staff.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The Monitoring Officer is required by law to report to the Executive on any Local Government Ombudsman findings of maladministration against the Council. He has had cause to issue one such report in 2014/15. This related to the provision of a consultancy service provided by the Council in connection with a Sustainable Homes Assessment. No action was required to be taken by the Executive pursuant to the contents of the report.

Borough Treasurer

- 6.2 There are no financial implications arising from the recommendations in this report.

Equalities Impact Assessment

- 6.3 There are no direct impact issues to be considered.

Strategic Risk Management Issues

- 6.4 This report presents no strategic risk management issues for the Council.

Other Officers

- 6.5 The views of other relevant officers in departments have been sought in the production of this information report.

7 CONSULTATION

Principal Groups Consulted

- 7.1 Corporate Management Team

Method of Consultation

- 7.2 Consultation was carried out on the draft information report.

Representations Received

- 7.3 None.

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Background Papers

Quarterly Corporate and Departmental performance reports 2014/15

Contact for further information

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Local Government
OMBUDSMAN

18 June 2015

By email

Mr Timothy Wheadon
Chief Executive
Bracknell Forest Borough Council

Dear Mr Wheadon

Annual Review Letter 2015

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2015. This year's statistics can be found in the table attached.

The data we have provided shows the complaints and enquiries we have recorded, along with the decisions we have made. We know that these numbers will not necessarily match the complaints data that your authority holds. For example, our numbers include people who we signpost back to the council but who may never contact you. I hope that this information, set alongside the data sets you hold about local complaints, will help you to assess your authority's performance.

We recognise that the total number of complaints will not, by itself, give a clear picture of how well those complaints are being responded to. Over the coming year we will be gathering more comprehensive information about the way complaints are being remedied so that in the future our annual letter focuses less on the total numbers and more on the outcomes of those complaints.

Supporting local scrutiny

One of the purposes of the annual letter to councils is to help ensure that learning from complaints informs scrutiny at the local level. Supporting local scrutiny is one of our key business plan objectives for this year and we will continue to work with elected members in all councils to help them understand how they can contribute to the complaints process.

We have recently worked in partnership with the Local Government Association to produce a workbook for councillors which explains how they can support local people with their complaints and identifies opportunities for using complaints data as part of their scrutiny tool kit. This can be found [here](#) and I would be grateful if you could encourage your elected members to make use of this helpful resource.

Last year we established a new Councillors Forum. This group, which meets three times a year, brings together councillors from across the political spectrum and from all types of local authorities. The aims of the Forum are to help us to better understand the needs of councillors when scrutinising local services and for members to act as champions for learning from complaints in their scrutiny roles. I value this direct engagement with elected members and believe it will further ensure LGO investigations have wider public value.

Encouraging effective local complaints handling

In November 2014, in partnership with the Parliamentary and Health Service Ombudsman and Healthwatch England, we published *'My Expectations'* a service standards framework document describing what good outcomes for people look like if complaints are handled well. Following extensive research with users of services, front line complaints handlers and other stakeholders, we have been able to articulate more clearly what people need and want when they raise a complaint.

This framework has been adopted by the Care Quality Commission and will be used as part of their inspection regime for both health and social care. Whilst they were written with those two sectors in mind, the principles of *'My Expectations'* are of relevance to all aspects of local authority complaints. We have shared them with link officers at a series of seminars earlier this year and would encourage chief executives and councillors to review their authority's approach to complaints against this user-led vision. A copy of the report can be found [here](#).

Future developments at LGO

My recent annual letters have highlighted the significant levels of change we have experienced at LGO over the last few years. Following the recent general election I expect further change.

Most significantly, the government published a review of public sector ombudsmen in March of this year. A copy of that report can be found [here](#). That review, along with a related consultation document, has proposed that a single ombudsman scheme should be created for all public services in England mirroring the position in the other nations of the United Kingdom. We are supportive of this proposal on the basis that it would provide the public with clearer routes to redress in an increasingly complex public service landscape. We will advise that such a scheme should recognise the unique roles and accountabilities of local authorities and should maintain the expertise and understanding of local government that exists at LGO. We will continue to work with government as they bring forward further proposals and would encourage local government to take a keen and active interest in this important area of reform in support of strong local accountability.

The Government has also recently consulted on a proposal to extend the jurisdiction of the LGO to some town and parish councils. We currently await the outcome of the consultation but we are pleased that the Government has recognised that there are some aspects of local service delivery that do not currently offer the public access to an independent ombudsman. We hope that these proposals will be the start of a wider debate about how we can all work together to ensure clear access to redress in an increasingly varied and complex system of local service delivery.

Yours sincerely



Dr Jane Martin
Local Government Ombudsman
Chair, Commission for Local Administration in England

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Local authority report – Bracknell Forest Council

For the period ending – 31/03/2015

For further information on interpretation of statistics click on this link to go to <http://www.lgo.org.uk/publications/annual-report/note-interpretation-statistics/>

Complaints and enquiries received

Local Authority	Adult Care Services	Benefits and tax	Corporate and other services	Education and children's services	Environmental services and public protection	Highways and transport	Housing	Planning and development	Total
Bracknell Forest C	3	1	2	4	2	3	2	1	18

Decisions made

Local Authority	<u>Detailed investigations carried out</u>		Advice given	Closed after initial enquiries	Incomplete/Invalid	Referred back for local resolution	Total
	Upheld	Not Upheld					
Bracknell Forest C	1	5	0	3	1	8	18

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Explanatory Notes by LGO

- **Upheld:** These are complaints where we have decided that an authority has been at fault in how it acted and that this fault may or may not have caused an injustice to the complainant, or where an authority has accepted that it needs to remedy the complaint before we make a finding on fault. If we have decided there was fault and it caused an injustice to the complainant, usually we will have recommended the authority take some action to address it.
- **Not upheld:** Where we have investigated a complaint and decided that a council has not acted with fault, we classify these complaints as not upheld.
- **Advice given:** These are cases where we give advice about why LGO would not look at a complaint because the body complained about was not within the LGO's scope or we had previously looked at the same complaint from the complainant, or another complaints handling organisation or advice agency was best placed to help them.
- **Closed after initial enquiries:** These complaints are where we have made an early decision that we could not or should not investigate the complaint, usually because the complaint is outside LGO's jurisdiction and we either cannot lawfully investigate it or we decide that it would not be appropriate in the circumstances of the case to do so. Our early assessment of a complaint may also show there was little injustice to a complainant that would need an LGO investigation of the matter, or that an investigation could not achieve anything, either because the evidence we see shows at an early stage there was no fault, or the outcome a complainant wants is not one we could achieve, for example overturning a court order.
- **Incomplete/invalid:** These are complaints where the complainant has not provided us with enough information to be able to decide what should happen with their complaint, or where the complainant tells us at a very early stage that they no longer wish to pursue their complaint.
- **Referred back for local resolution:** We work on the principle that it is always best for complaints to be resolved by the service provider wherever possible. Furthermore, the Local Government Act 1974 requires LGO to give authorities an opportunity to try and resolve a complaint before we will get involved. Usually we tell complainants how to complain to an authority and ask them to contact it directly. In many instances, authorities are successful in resolving the complaint and the complainant does not recontact us.

COMPLAINTS – 2014/15

Department	Statutory Stage 1	Statutory Stages 2&3	Stage 2 ¹	Stage 3 ²	Ombudsman	Total Complaints	Of Which (excluding on-going cases):		
							Upheld	Partially Upheld	Not Upheld
Chief Executive's Office	N/A	N/A	0	0	0	0	0	0	0
Corporate Services	N/A	N/A	13	0	0	13	2	3	8
Environment, Culture and Communities	N/A	N/A	10	8	4	22	8	1	11
Children, Young People & Learning	10	3	3	1	2	19	1	2	13
Adult Social Care, Health & Housing	21	N/A	17	4	2	44	6	17	19
Total	31	3	43	13	8	98	17 (19%)	23 (25%)	50 (56%)

¹ The former stages 2 and 3 were combined to form the new stage 2 from 1 January 2015

² The former stage 4 became the new stage 3 from 1 January 2015

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COMPLAINTS – 2013/14

Department	Statutory Stage 1	Statutory Stages 2&3	Stage 2	Stage 3	Stage 4	Ombudsman	Total Complaints	Of Which (excluding 14 on-going):		
								Upheld	Partially Upheld	Not Upheld
Chief Executive's Office	N/A	N/A	0	0	0	1	1	0	0	1
Corporate Services	N/A	N/A	25	4	0	5	34	18	0	16
Environment, Culture and Communities	N/A	N/A	14	3	4	4	25	5	0	15
Children, Young People & Learning	23	2	1	1	0	2	29	3	6	15
Adult Social Care, Health & Housing	19	N/A	9	7	4	2	41	2	13	22
2013/14 Total	42	2	49	15	8	14	130	28 (24%)	19 (16%)	69 (59%)

2012/13 Total	39	3	28	9	11	9	99	Information not collected		
2011/12 Total	41	3	20	8	5	15	92			