

**TO: OVERVIEW AND SCRUTINY COMMISSION
17 NOVEMBER 2016**

**COMPLAINTS AGAINST BRACKNELL FOREST COUNCIL IN 2015/16
Assistant Chief Executive**

1 PURPOSE OF DECISION

- 1.1 To brief the Overview and Scrutiny Commission about complaints made against the Council in 2015/16, as part of the ongoing work to be responsive to residents' concerns, in pursuit of the Council's Strategic Theme of Value for Money, in which a key measure of success is that resident and staff satisfaction levels remain high. The report below was endorsed and noted by the Executive at its meeting on 27 September 2016.

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 2015/16; and**
- 2.3 **The information on other complaints against the Council in 2015/16.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 This annual 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 complainants and better administration for the authorities.
- 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. If the

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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 2015/16 is attached at Appendix 1. Drawing on this, also other published and internal information, notable points are:
- a) The figure of 26 complaints received by the LGO against the Council in 2015/16 is higher than the 18 complaints received in 2014/15, and higher than the annual average of 19 complaints the LGO received about the Council over the preceding three years 2010/13.
 - b) The number of complaints made to the LGO about the Council was lower than any other Unitary Authority in Berkshire, and around half the national average for all councils.
 - c) The LGO made formal decisions on 26 complaints against the Council (some of which related to complaints from 2014/15). Of the complaints which were subject to a detailed investigation, the number (2) upheld against the Council was lower than any other Council in Berkshire, and a third of the national average for all councils.
 - d) In their 2015/16 Annual Report, the LGO stated, '*We upheld 51% of all complaints where we carried out a detailed investigation*'. The corresponding figure for Bracknell Forest Council was much lower, at 33%.
 - e) The Council's average speed in responding to LGO cases has remained well within the 28 days usually requested by the LGO.
- 5.5 During 2015/16, the LGO decided to uphold two complaints against the Council. The full circumstances of these were reported publicly to the Executive at their meetings on 15 December 2015 and 14 June 2016. In summary:
- a) In the first case, the LGO concluded there had been maladministration by the Council in its approach to de-registering a volunteer ('Mr B') from its Appropriate Adult service and that this had resulted in the complainant suffering injustice. This finding was made notwithstanding the fact that the Ombudsman acknowledged the steps the Council had taken in investigating the complaint internally, specifically finding in Mr B's favour on the issue, apologising to Mr B and offering him an opportunity to make representations with a view to possible re-instatement.
As a consequence of the Council's representations, the Ombudsman's final report dated 4 September omitted two of the three limbs of maladministration they had originally levelled against the Council. The Ombudsman advised that as the Council had previously acknowledged the fault and remedied it, the Ombudsman had no alternative but to conclude that there had been maladministration and injustice. The Ombudsman also recommended some further remedial actions, which have been actioned.
 - b) In the second case, the LGO decided that there was maladministration by the Council in respect of the accuracy of some measurements included in an officer report to the Planning Committee. The Council had previously apologised that the officer report to the Planning committee had wrongly understated the full width and depth of the property in question, consequently the distance from the development to the complainant's house boundary and roof height were also understated. However, this did not detract from the officer recommendation to approve the planning application. The Council had satisfied itself that the dimensions shown on the plans were correct, and therefore enforceable. Furthermore, the Chairman of the Planning Committee had

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confirmed that the unclear dimensions in the report would not have detracted from members' understanding, in reaching their majority decision to approve the planning application. The faults in measurements in this case were regrettable, though the error was isolated, minor and wholly inconsequential. This was explicitly accepted by the Ombudsman, who determined that, *'While there was some limited fault in the reporting of measurements in the officer report, I cannot conclude but for this fault a different outcome would have resulted.'*

In both cases, the Executive resolved that no further action needed to be taken.

- 5.6 In summary, the number of complaints to the LGO concerning Bracknell Forest Council has risen but it remains 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. Nevertheless, it must be recognised that, however few complaints are made, they are all important to the people who raise them and are treated seriously by the council.
- 5.7 As reported to the Executive at its meeting on 22 September 2015, there was a significant change in the way the LGO arrived at its decisions on complaints from 1 April 2014. The most notable changes 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 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'*.

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, even on very minor issues. Officers have continued to challenge what they regard to be incorrect assessments on significant cases, and this can be very time consuming.

- 5.8 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 by the Council in the discharge of its Executive functions and these reports are required to be copied to each Member of the Council*. There is an additional and quite separate requirement on an Authority which is subject to a finding of Maladministration under the Local Government Act 1974 to notify the LGO within three months from the publication of the LGO's final report of the action which has been taken or will be taken in response to the report.

* (in the case of maladministration relating to a non Executive function the Monitoring Officer's report is required by Section 5 of the Act to be presented to the Council rather than the Executive)

Other Complaints against the Council

- 5.9 The Council's overall complaint statistics for 2015/16, as reported by departments in their Quarterly Service Reports (QSR), shows a 7% reduction on the 2014/15 figures, and are

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given in Appendix 2. Individual complaints which move through the different stages are recorded separately at each stage of the process, such that an individual complaint can be repeated in the table. The figures at Appendix 2 exclude complaints dealt with at the point of service, such as verbal reports to front line staff. 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. Last year, the complaints procedure was streamlined reducing the stages from four to three.

- 5.10 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 14 LGO complaints cases differs to the 26 in the LGO letter mainly because it excludes complaints dealt with by the LGO without reference to the Council. Officers have previously queried with the LGO why they no longer inform us of such cases.

Learning From Complaints in 2015/16

- 5.11 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. 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 2015/16 have included:

Adult Social Care, Health and Housing

- 5.12 There are regular meetings within the Adult Social Care team to ensure learning from complaints is disseminated and acted on. The data is collated as the year progresses and is reported annually within the Complaints Report for Adult Social Care. Improvements in practices and processes arising from complaint investigations in 2015-16 included:
- An action plan was put in place to strengthen the processes and expectations around Ordinary Residence, including the role of the Care & Support Panel.
 - Advice and guidelines were given to the front desk team who deal with incoming enquires, to ensure that when carers contact Adult Services they are properly advised regarding the role and status of Berkshire Carers Services before being referred on for assessment.
 - Finance processes were reviewed to see how the area of invoicing (where charges are being made in arrears) can be improved to make things clearer to people receiving support and their carers and family.
- 5.13 Two housing complaints were made by customers who were unhappy with the welfare service. Both claims were very complex and the learning point was that complex issues are unlikely to be resolved via correspondence and there is a better chance that customers will understand what is required via a face to face meeting.
- 5.14 Over half of the housing complaints in one quarter were made against a welfare and housing caseworker. In the main those complaints were not upheld. However, training has been provided for staff concerning how to provide unwelcome news to customers.

Corporate Services

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- 5.15 Upon investigation of a complaint about the Council's council tax reduction scheme, it became clear that the Council had not promoted the service of an officer visiting to help people complete their Council tax reduction scheme form. The form was revised to take this and other improvements into account.
- 5.16 Following a complaint being upheld, the Council's Website information was clarified regarding waste collection, fees and charges.

Children, Young People and Learning

- 5.17 A 'learning from complaints' pro forma is sent to an appropriate Manager or Head of Service for completion following the investigation and closure of a complaint. This is used to record an agreed action plan, identifying staff involved, timescales and how progress will be monitored. Where a complaint has been difficult or complex, a 'learning from complaints' meeting is held with Senior Managers in Children's Social Care and usually chaired by the Head of Service for Performance and Governance. This meeting has been introduced to reflect and learn from the situation and put in place measures to reduce the risk of issues arising in the future. There have been two such meetings during the year. Examples of specific actions from learning from complaints in 2015-16 were:
- Parents should be updated following the meeting of professionals (in relation to their case) and Section 47 assessments where appropriate.
 - During the course of an investigation, that the Complaints Manager writes to the complainant to elaborate on any likely actions that need to be undertaken before the next contact.
 - When a 'looked after child' placement is coming to an end, identify quickly what needs to be transferred / actioned, i.e., mobile phone contracts, NHS documentation, NI number.

Environment, Culture and Communities

- 5.18 Arising from a complaint about high hedges in neighbouring properties, it was decided to review the Council's internal practice note on dealing with high hedges, and to remind staff that they must adhere to set requirements and not jeopardise the Council's impartiality.
- 5.19 Following a complaint about trees, which was not responded to promptly, internal procedures were improved to help ensure this does not happen again. Also, Parks and Countryside staff were reminded to be more careful not to raise expectations wrongly, concerning council funding of trees works.

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 relating to its Executive functions (and the Council in relation to non Executive functions). He has had cause to issue two such reports in 2015/16. The facts of each are set out in Paragraph 5.5 of this 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 None.

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.

Background Papers

Quarterly Corporate and Departmental performance reports 2015/16

Contact for further information

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Local Government
OMBUDSMAN

21 July 2016

By email

Timothy Wheadon
Chief Executive
Bracknell Forest Borough Council

Dear Timothy Wheadon,

Annual Review Letter 2016

I write to you 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 2016.

The enclosed tables present the number of complaints and enquiries received and the decisions we made about your authority during the period. I hope that this information will prove helpful in assessing your authority's performance in handling complaints.

Last year we provided information on the number of complaints upheld and not upheld for the first time. In response to council feedback, this year we are providing additional information to focus the statistics more on the outcome from complaints rather than just the amounts received.

We provide a breakdown of the upheld investigations to show how they were remedied. This includes the number of cases where our recommendations remedied the fault and the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. In these latter cases we provide reassurance that your authority had satisfactorily attempted to resolve the complaint before the person came to us. In addition, we provide a compliance rate for implementing our recommendations to remedy a fault.

I want to emphasise that these statistics comprise the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, but who may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

Effective accountability for devolved authorities

Local government is going through perhaps some of the biggest changes since the LGO was set up more than 40 years ago. The creation of combined authorities and an increase in the number of elected mayors will hugely affect the way local services are held to account. We have already started working with the early combined authorities to help develop principles for effective and accessible complaints systems.

We have also reviewed how we structure our casework teams to provide insight across the emerging combined authority structures. Responding to council feedback, this included reconfirming the Assistant Ombudsman responsible for relationship management with each authority, which we recently communicated to Link Officers through distribution of our manual for working with the LGO.

Supporting local scrutiny

Our corporate strategy is based upon the twin pillars of remedying injustice and improving local public services. The numbers in our annual report demonstrate that we continue to improve the quality of our service in achieving swift redress.

To measure our progress against the objective to improve local services, in March we issued a survey to all councils. I was encouraged to find that 98% of respondents believed that our investigations have had an impact on improving local public services. I am confident that the continued publication of our decisions (alongside an improved facility to browse for them on our website), focus reports on key themes and the data in these annual review letters is helping the sector to learn from its mistakes and support better services for citizens.

The survey also demonstrated a significant proportion of councils are sharing the information we provide with elected members and scrutiny committees. I welcome this approach, and want to take this opportunity to encourage others to do so.

Complaint handling training

We recently refreshed our Effective Complaint Handling courses for local authorities and introduced a new course for independent care providers. We trained over 700 people last year and feedback shows a 96% increase in the number of participants who felt confident in dealing with complaints following the course. To find out more, visit www.lgo.org.uk/training.

Ombudsman reform

You will no doubt be aware that the government has announced the intention to produce draft legislation for the creation of a single ombudsman for public services in England. This is something we support, as it will provide the public with a clearer route to redress in an increasingly complex environment of public service delivery.

We will continue to support government in the realisation of the public service ombudsman, and are advising on the importance of maintaining our 40 years plus experience of working with local government and our understanding its unique accountability structures.

This will also be the last time I write with your annual review. My seven-year term of office as Local Government Ombudsman comes to an end in January 2017. The LGO has gone through extensive change since I took up post in 2010, becoming a much leaner and more focused organisation, and I am confident that it is well prepared for the challenges ahead.

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: 31/03/2016

For further information on how to interpret our statistics, please visit our website:
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
4	1	1	8	1	1	2	7	1	26

Decisions made

Decisions made				Detailed Investigations			Total
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	
2	0	12	6	4	2	33%	26

Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.

The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

The compliance rate is the proportion of remedied complaints where our recommendations are believed to have been implemented.

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement	Compliance Rate
1	0	100%

Explanatory Notes by LGO

How complaints and enquiries were dealt with is explained below:

- **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 Remedied - For the year 2015/16 we provide information about complaints remedied. Where we find that an authority has acted with fault and this has caused an injustice to a complainant, we will make a recommendation about the action an authority should take to remedy that injustice. An Ombudsman's recommendations are not binding however most authorities comply with our recommendations without the need for any further action by the Ombudsman. We will also uphold a complaint that has come to us where the authority has already accepted during its own complaints processes that it acted with fault and it has offered what we consider to be a suitable remedy. The figures for 'complaints remedied satisfactorily by Authority before LGO involvement' demonstrate the number of times we have received complaints against an authority but it has already taken all the steps it needed to.

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Appendix 2

COMPLAINTS – 2015/16

Department	Statutory Stage 1	Statutory Stages 2&3	Stage 2	Stage 3	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	2	0	0	2	1	0	0
Environment, Culture and Communities	N/A	N/A	6	4	8	18	1	1	14
Children, Young People & Learning	26	2	3	3	2	36	5	7	17
Adult Social Care, Health & Housing	18	N/A	13	0	4	35	10	10	11
Total	44	2	24	7	14	91	17 (22%)	18 (23%)	42 (55%)

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COMPLAINTS – 2014/15

Department	Statutory Stage 1	Statutory Stages 2&3	Stage 2 ¹	Stage 3 ²	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	N/A	0	0	0	0	0
Corporate Services	N/A	N/A	13	0	N/A	0	13	2	3	8
Environment, Culture and Communities	N/A	N/A	10	8	N/A	4	22	8	1	11
Children, Young People & Learning	10	3	3	1	N/A	2	19	1	2	13
Adult Social Care, Health & Housing	21	N/A	17	4	N/A	2	44	6	17	19
2013/14 Total	31	3	43	13	N/A	8	98	17 (19%)	23 (25%)	50 (56%)

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			

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