

# **Cherwell District Council**

## **Council**

**21 October 2019**

### **Local Government Ombudsman Annual Report 2018/19**

## **Report of Director Law and Governance and Monitoring Officer**

This report is public

### **Purpose of report**

To provide council with the Local Government Ombudsman's annual report on Cherwell District Council for the financial year 2018/19.

## **1.0 Recommendations**

The meeting is recommended:

- 1.1 To note the report.

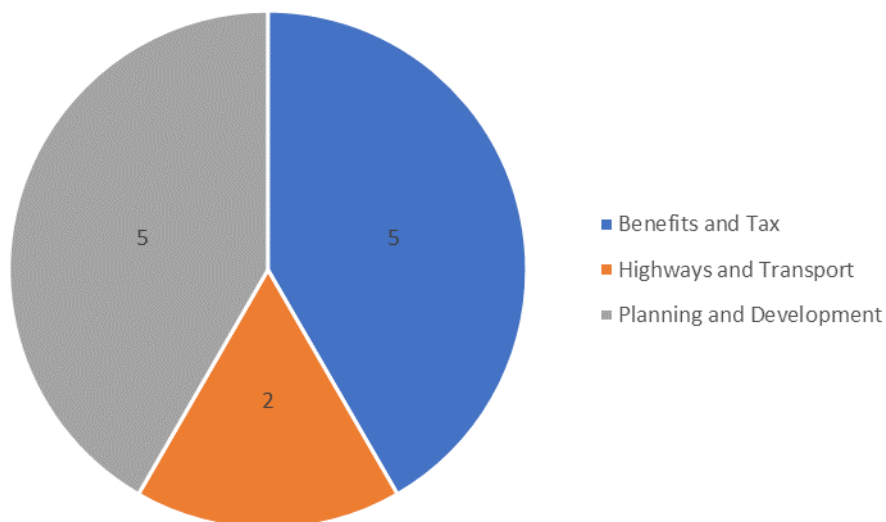
## **2.0 Introduction**

- 2.1 The Local Government and Social Care Ombudsman (LGO) provides the final stage for complaints about councils and social care after the Council's own complaints procedure has been exhausted. Annually the LGO issues an annual report covering complaints that have been received and their outcome. This report provides their findings for 2018/19.

## **3.0 Report Details**

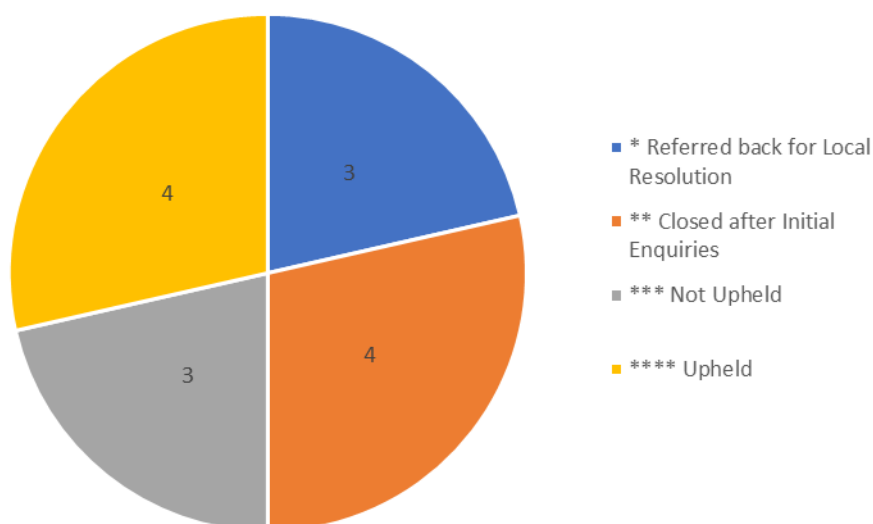
- 3.1 The LGO is the final stage for complaints about councils, all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services. They are a free service provided to people that have completed all stages of the Council's own complaints procedure and remain unhappy with the outcome. The LGO have guidelines regarding what they can investigate. Complainants must have complained to the council within 12 months of becoming aware of the matter and been directly affected by the matter resulting in 'personal injustice'. Not all complaints will be investigated, for example if the Ombudsman does not feel they will find fault regarding the Council.

3.2 The LGO received a total of 12 complaints and enquiries against Cherwell District Council for the period 1 April 2018 – 31 March 2019, the numbers received by service area as categorised by the LGO are as follows:



3.3 The LGO returned decisions on 14 complaints in the period 1 April 2018 – 31 March 2019. It should be noted that decisions may relate to complaints made in the previous year and investigations may not have been completed on all complaints received during 2017/18 and therefore a decision may not have been reached and the number of complaints received, and decisions made will always differ.

3.4 Decisions by the LGO are divided into different categories dependent on their findings, the 14 received about Cherwell District Council were categorised as follows:



\* Complaints that had not completed the CDC Complaints Procedure

\*\* Complaint assessed by LGO Assessment team and not passed for further investigation

\*\*\* Complaints assessed and forwarded to investigator for investigation and no fault found

\*\*\*\* Complaints assessed and forwarded to investigator for investigation and fault found

3.5 Of the 14 decisions, 4 of the complaints investigated were upheld, details of the complaints are as follows, as well as the actions the council has taken to address the specific cases to ensure we improve services for the future

#### **1. Complaint. 1**

Mrs X complained via her representative (Mrs Y) about the Council approving a planning application for her neighbour to build an extension, and the action it took when there was a breach of planning control.

##### **LGO Decision**

The Council was at fault for not measuring the site when it considered the application. However, this did not cause an injustice, and it properly considered how the extension would affect Mrs X. The Council was not at fault in how it considered enforcement against the breach. There was some fault in the Council's communications with Mrs Y, which caused frustration and confusion for Mrs X and Mrs Y. The Council should apologise.

##### **Lesson Learnt**

Officers should measure dimensions on site, where there is (or is reasonably likely to be) an issue such as with proximity to a neighbouring property. To that end, we have reminded officers of the importance of thorough record keeping and made sure everyone in the team has access to a tape measure.

We also need to make sure our record keeping is sufficiently thorough to enable colleagues to pick up a case fresh and to understand it. We need to make sure we communicate clearly with interested parties, and to give realistic timescales within which people can expect a response from us. To that end, a Local Enforcement Plan has been published which provides information to interested parties on how planning enforcement operates, what it can and cannot do, and how cases are prioritised and their respective response times.

#### **2. Complaint 2**

Mr B complains that the Council failed to follow the correct procedure when he objected to an application for a mobile food van to extend its trading hours.

##### **LGO Decision**

The Council failed to clearly explain why it rejected Mr B's representations about an application for a mobile food van to extend its trading hours. The Council has agreed to apologise to Mr B and take action to ensure similar failings do not occur in future.

##### **Lesson Learnt**

A clear procedure has now been put in place for dealing with representations. The licensing team are now fully aware of the need for clarity and openness when responding to representations and will fully explain the reasons behind their decision making in line with legislation and guidance.

### **3. Complaint 3**

Ms K complains the Council wrongly advised that she could claim housing benefit after she claimed universal credit. Therefore, she says she lost out on benefits of more than £350.

#### **LGO Decision**

The Council's incorrect advice led to injustice to Ms K, because she stopped her claim for UC. However, as the Council gave the correct advice from 24 January 2018 the injustice did not continue. Recommended that the Council pays Ms K £200 to take account of distress and her time and trouble as well as potential lost benefit.

#### **Lesson Learnt**

- We need to review our Customer Services online learning/training tool on a more regular basis and with input from the service areas. This will help to prevent this kind of issue in the future.
- A review of the UC awareness and training for both CS and Benefits teams. The Regulations are frequently changing and this makes it a challenge for the teams to keep updated.
- We also need to engage with Job Centre Plus as I feel their staff should be equally aware of the UC regulations. We will feed this back at our next meeting.

### **4. Complaint 4**

Miss X and Mr Y complain the Council failed to tell them about a planning application and failed to consider the impact on them of agreeing it. They say this has caused reduced light, noise problems and a lack of privacy which is ongoing.

#### **LGO Decision**

There was fault in the way the Council made its planning decision that caused an injustice to Miss X and Mr Y. The Council missed an opportunity to resolve the complaint using its complaints handling process so I am also recommending a payment to the complainants for their time and trouble complaining to us.

The Council will, within one month of the date of the final decision:

- Apologise to Miss X and Mr Y for the failure to consider their amenity and the possible use by the neighbour of the outside space;
- Pay them £600 to reflect the impact on their amenity since the neighbour began using the outside space in late August 2018
- Pay them £150 for the time and trouble of making a complaint to us.

The Council will, within three months of the date of the final decision:

- Contact the landlord of the complainants' property and offer to pay for improvements to the property.

### **Lesson Learnt**

In specific reference to this case the LGO recommendations contained a number of elements but the subsequent action plan to deal with the recommendations was not sufficiently detailed, particularly in relation to the all the steps needed to investigate the option of installing secondary double glazing. The action plan should have included all steps necessary, a clear timeline, who was responsible for each element and what the alternatives were if the preferred option failed. In addition, as the matter required the input of more than one Council service, there needed to be greater clarity and proactive oversight by a senior officer especially given the original lead officer left the Council. In order to prevent such a situation that gave rise to the complaint occurring again a clear sign off record is needed to provide evidence that all material issues have been addressed; and that reports have been checked and recommendations authorised.

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 This is an Annual report and provides members with information with regard to the number of complaints received by the ombudsman against the Council, the decisions regarding complaints and the lessons learnt.

## **5.0 Consultation**

Senior Manager of Development Management Place and Growth Directorate, comments included within the report

Licensing Manager, comments included within the report.

Benefits Manager, comments included within the report.

Interim Senior Management Planning – comments included within the report.

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

None

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 There are no direct financial implications arising from this report except for those highlighted in the remedies in section 3.3 Learning lessons from complaints brought against the council should ensure both an improved service for the future as well as minimise retrospective payments to address concerns brought to our attention by the LGO.

Comments checked by:  
Adele Taylor, Interim Executive Director of Finance, 0300 003 0103  
Adele.taylor@cherwell-dc.gov.uk

### **Legal Implications**

7.2 There are no Legal implications arising from this report.

Comments checked by:  
Chris Mace, Solicitor, 01295 221822,  
Christopher.mace@cherwell-dc.gov.uk

### **Risk Implications**

7.3 There are no Risk implications arising directly from this report. It is important for the Council to capture and implement the lessons learnt from each LGO decision to ensure we improve the service delivered to our customers and to reduce the risk of such issues occurring again.

Comments checked by:  
Hedd Vaughan-Evans, Assistant Director: Performance and Transformation, 0300 003 0111, hedd.vaughanevans@cherwell-dc.gov.uk

## **8.0 Decision Information**

### **Wards Affected**

All

### **Links to Corporate Plan and Policy Framework**

N/A

### **Lead Councillor**

Councillor Tony Ilott, Lead member for Financial Management and Governance

### **Document Information**

| <b>Appendix No</b>         | <b>Title</b>  |
|----------------------------|---|
| None                       | None  |
| <b>Background Papers</b>   |   |
| None                       |   |
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