

Committee: Audit & Standards Committee
Title: Complaint upheld by the Local Government
Ombudsman
**Report
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Summary

1. The Local Government and Social Care Ombudsman (LGSCO) has upheld a complaint relating to a planning enforcement investigation. It awarded £400 in compensation to the two complainants (£200 each).
2. In these circumstances, the findings are reported to the committee as a financial recompense has been advised by the LGSCO.
3. This report summarises the complaint, acknowledges that there were shortcomings in relation to working practices and sets out the actions taken in response to the findings.

Recommendations

4. To note the actions taken by officers in response to the findings of the LGSCO.

Financial Implications

5. The total compensation (£400) awarded by the LGSCO has been offered to the complainants.

Background Papers

6. The LGSCO decision letter is appended to this report.

Situation

7. The complaint concerned planning enforcement cases, the first of which was opened in November 2021. In December 2021 an officer visited the site and observed the development being undertaken. The works appeared to deviate from the approved plans and thus the officer considered that there had been a breach of planning control. Following discussions with the site owner the officer invited a retrospective planning application. An application was not forthcoming. Following a further visit, and with the development practically complete (which allowed a full assessment of it) the case was closed in March 2023. It was not expedient to take further action.
8. The owner had also placed a static caravan on the land during the build. This became the subject of a second enforcement case. A retrospective application was made to retain it but refused planning permission under delegated

powers. In January 2023 officers issued a formal notice seeking its removal. However, the static caravan remains in place today. The LGSCO agrees that it does not cause significant injustice to nearby residents however, it is not acceptable in policy terms and causes harm to the character of the area. The matter was referred to the council's legal services in March 2023 and prosecution is being sought for non-compliance with a notice.

9. The complainant also complained that the development was affecting an adjacent public footpath. Allegations of infringements to public footpaths are not within the council's remit and falls under the county council (ECC). The Council referred the matter to ECC in writing in August 2023.
10. The LGSCO did not find fault in the council's decision-making however it did find that that the process was subject to delays and while there are no set time frames in enforcement, the delays caused uncertainty and frustration to the complainants. The LGSCO awarded compensation of £200 to both complainants. It also recommended the following actions:
 - Council issues a written apology for the frustration and uncertainty caused with delays in handling their planning enforcement reports.
 - Carry out a review of its procedures to ensure investigations into reported breaches of planning control do not drift without action; and
 - Send written reminders to relevant Planning staff to make timely referrals to other authorities when it is deemed necessary and to ensure it records this on file.
11. A letter of apology and offer of compensation has been made to the complainants.
12. The Strategic Director of Planning has sent a written instruction to all planning staff to remind them of their duty to refer issues on to partner agencies where the matter falls outside the council's remit and to record the referral.
13. The Strategic Director of Planning has instructed that a case monitoring spreadsheet is maintained and updated within the Planning Enforcement Team. The monitoring tool will be used for Category A and B cases and category C cases where there is a clear breach. This will be reviewed at a monthly case tracking meeting with the team and Head of Development Management. Milestones and dates will be recorded. This is how major planning applications are tracked and driven within the department. It has improved major applications performance. The same process will now be used for enforcement cases.
14. It should be noted that the Planning Service carried out a review of its Planning Enforcement processes and working practices in March 2023. A number of internal improvements were made throughout 2023 and thus the timelines connected to the case in question are not typical of the majority of cases in 2023/4 onwards.

15. The council is to contact the LGSCO to advise that its recommendations have been actioned.

Risk Analysis

16.

Risk	Likelihood	Impact	Mitigating actions
The organisation fails to learn from the key lessons identified from the LGSCO final decision.	1 – this report has been shared with the relevant officers and senior management	3 – there are financial and reputational risks arising from adverse findings by the LGSCO; in addition if the Council fails to follow good processes this has a detrimental effect on residents or customers	We share LGSCO findings with senior management. We ensure an action plan is drafted in response to specific findings and followed up. LGSCO annual review letters are shared with A&S Committee.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

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- Appendix 1: Findings of the Local Government & Social Case Ombudsman (LGSCO)