

Part A

Report to: Cabinet

Date of meeting: 11 February 2019

Report author: Head of Democracy and Governance

Title: Ombudsman Decisions

1.0 Summary

1.1 Under Section 5A of the Local Government and Housing Act 1989 the Council's Monitoring Officer is obliged to report to Cabinet any finding of maladministration by the Local Government and Social Care Ombudsman.

1.2 On 7 January 2019 and 31 January 2019 the Council received final reports from the Ombudsman relating to a traffic penalty notice and recovery action regarding overpaid Housing Benefit. A copy of the decisions are attached as appendices 1 and 2.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
The Council does not comply with the Ombudsman's recommendation	The Council gets a bad reputation with the Ombudsman	The Council agrees with the Ombudsman's recommendation and implements it	treat	1
The Council does not learn from the issues raised in the report	Further findings of maladministration against the Council	The Revenues and Benefits team have implemented revised procedures regarding enforcement	treat	2

3.0 Recommendations

3.1 That the Ombudsman's decisions be noted

Further information:

Name Carol Chen

Email carol.chen@watford.gov.uk

Phone 8350

4.0 Detailed proposal

- 4.1 Under section 5A of the Local Government and Housing Act 1989 the Monitoring Officer is obliged to report any Ombudsman findings of maladministration to Cabinet. When the Ombudsman finds fault that is classified as maladministration.
- 4.2 On 7 January 2019 the Council received the final report of the Ombudsman in relation to a complaint that the Council had not implemented a decision of the Traffic Enforcement Centre that had cancelled an Order and was refusing to refund the penalty charged.
- 4.3 The facts of the particular case were unique in that the complainant had applied to the Traffic Enforcement Centre some years after the fine had been paid and the Enforcement Centre had simply agreed to the complainants request to cancel without giving the Council the opportunity to make representations. When the Council received the order it did not challenge the order but did not pay back the money as it considered the complainant had challenged the wrong traffic penalty notice.
- 4.4 The Ombudsman had previously published a generic report on how councils handled parking enforcement complaints and had stated that where the Traffic Enforcement Centre revoked an order a Council should reimburse the motorist. The Ombudsman therefore upheld the complaint.
- 4.5 The Council has reluctantly accepted the Ombudsman's decision despite providing the Ombudsman with evidence that the complainant had challenged the wrong penalty notice.
- 4.6 The Parking Manager has agreed that should such a situation arise in the future the Council will seek to challenge the Traffic Enforcement Centres decision. A copy of the Ombudsman's decision is attached as appendix 1.
- 4.7 On 31 January 2019 the Council received the final report of the Ombudsman in relation to a complaint about the way the Council had gone about seeking to recover overpaid Housing Benefit. A copy of the report is attached at appendix 2.

- 4.8 The Head of Revenues and Benefits has accepted the findings of the Ombudsman and the sum to be paid to the complainant will be used to offset their current debt.
- 4.9 The Head of Revenues and Benefits has now reviewed the process in relation to recovery particularly around applying for attachment of earnings orders and apologised to the complainant when dealing with her complaint under the Council's own complaints procedure.
- 4.10 The Ombudsman now publishes all her decisions so these will be available to view on the Ombudsman's website.

5.0 **Implications**

5.1 **Financial**

- 5.1.1 The Shared Director of Finance comments that the payments can be met from within existing resources

5.2 **Legal Issues** (Monitoring Officer)

- 5.2.1 The Head of Democracy and Governance comments that as stated there is a legal requirement for cabinet to be made aware of any findings of maladministration

5.3 **Equalities, Human Rights and Data Protection**

- 5.3.1 None applicable to this case.

Appendices

Appendix 1 and 2 Ombudsman Reports

Background papers

No papers were used in the preparation of this report.