

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Standards Committee

18 November 2022

TITLE:	Local Government Ombudsman Annual Letter
PORTFOLIO HOLDER:	Councillor Paul Roberts - Council Leader SMDC
CONTACT OFFICER:	Karen Lomas - Head of Customer Services
WARDS INVOLVED:	Non-Specific

Appendices Attached:

Local Government and Social Care Ombudsman Annual Review Letter

1. Reason for the Report

1.1 To advise members of the content of the Ombudsman Annual Letter for the period April 2021 – March 2022.

2. Recommendation

2.1 That members note the content of the Ombudsman's Annual Letter (included at Appendix A).

3. Executive Summary

3.1 The Local Government Ombudsman's Annual Review Letter summarises complaints and enquiries received by it in relation to the Council's activities. The letters are published on the Ombudsman's web site together with specimen data used to inform the Ombudsman's Annual Report.

3.2 In 2021/22 the Ombudsman received **7** new enquiries or complaints, compared with 5 in the previous year. Detail of the decisions made and investigated complaints in 2021/22 are summarised as follows:

Service Area	Complaint	Finding
Upheld (2)		
Not upheld (0)		

Service Area	Complaint	Finding
Closed after initial enquiries (5)		
<p>Benefits and Council Tax -Upheld -21010196</p>	<p>Ms X complains the Council failed to calculate her council tax correctly and then passed her debt on to bailiffs who were rude and aggressive towards her.</p> <p>Ms X feels the Council did not properly understand her complaints at stage 1 and 2.</p> <p>Ms X would like:</p> <ul style="list-style-type: none"> ○ Her accounts removed from the bailiff company; ○ An apology from the bailiffs and the Council; ○ The bailiff staff to have training in recognising vulnerabilities; ○ The Council to stop using bailiff companies; and ○ Compensation. 	<p>The Local Government Finance Act 1992 gives local authorities the power to levy and collect a dwelling tax. This is known as council tax. The main legislation concerned with the collection and recovery of council tax is the Council Tax (Administration and Enforcement) Regulations 1992 (as amended).</p> <p>Before a council can pursue someone for council tax it must send a demand. If a taxpayer misses a payment, a council must issue at least one reminder notice before issuing a summons for a liability order in the magistrates' court. They can then seek to recover payment of the sum in the liability order by various means.</p> <p>A liability order gives a council legal powers to take enforcement action to collect the money owed. The council can add the costs of obtaining the order to the person's debt.</p> <p>If someone does not pay the council tax, and the costs, the council can ask bailiffs (also referred to as enforcement agents) to collect the debt. Bailiffs charge fees which also must be paid.</p> <p>The law does not define what a vulnerable person is. The Ministry of Justice has issued 'Taking Control of Goods: National Standards' ("the Standards") which set out the responsibilities of creditors and bailiffs. The Standards say -</p> <p>Creditors should remember that bailiffs act on their behalf and they are accountable for the bailiff's actions. They must consider if the debtor is vulnerable and if so, agree clear protocols governing the approach the bailiff should take. Examples of a vulnerable debtor include someone who is seriously ill or disabled.</p> <p>Bailiffs must not:</p> <p>Falsely imply action will be taken when it cannot legally be taken</p> <p>Falsely imply a course of action will ensue before it is possible to know whether such action would be permissible</p> <p>Falsely imply action has been taken when it has not</p> <p>Falsely imply a debtor refusing entry to a property is an offence</p> <p>If a bailiff identifies a vulnerable debtor, they should alert the creditor and ensure they act in accordance with all relevant legislation. Bailiffs should be aware that vulnerability may not be immediately obvious.</p> <p>What happened</p> <p>Ms X had outstanding council tax for three properties. After the Council took action as described in paragraph 10, the accounts were passed to bailiffs on 15 October</p>

Service Area	Complaint	Finding
		<p>2020</p> <p>Unfortunately Ms X contracted Covid in November 2020 and appointed an advocate to act on her behalf.</p> <p>The advocate emailed the Council on 26 November 2020 and the bailiffs on 3 December 2020 asking the debts to be put on hold as Ms X was suffering with Covid.</p> <p>After a conversation with the advocate on 4th December 2020, the bailiffs agreed to put the case on hold until 11 December.</p> <p>The bailiffs then emailed Ms X on 15 December seeking medical evidence. The Council repeated this request in an email on 22 December.</p> <p>Ms X tells me she was admitted to hospital with Covid in December.</p> <p>Between December 2020 and March 2021 the bailiffs made several telephone calls and a house visit to Ms X.</p> <p>Neither Council nor bailiffs heard from Ms X or her advocate again until 12 March 2021. The advocate told them Ms X was severely ill. The bailiffs put her case on hold again.</p> <p>Ms X sent evidence of her condition in the form of sick notes from her GP dated 11 November 2020 – 30 January 2021, and 20 February 2021 – 20 March 2021.</p> <p>She also had a letter from her GP dated 15 March 2021 saying she could not take part in the council tax dispute as she was ill.</p> <p>Ms X called the bailiffs on 19 April 2021. Ms X states they were rude and condescending to her on the phone and she ended the call. The bailiff's apologised if it caused offence and describe the call as "unfriendly".</p> <p>This prompted a formal complaint from Ms X on 21 April 2021 and the Council told the bailiffs to hold off any further action as she "appears to be vulnerable".</p> <p>Analysis - Ms X says that she felt threatened by the bailiffs. She lives with her son and was very ill with long Covid. She says they were anxious every time someone knocked at the door.</p> <p>While I accept Ms X was extremely ill and going through a difficult period, the records from the bailiff's show they made one house call on 2nd March 2021. On the same day her advocate called the bailiffs to say Ms X was suffering with long Covid.</p> <p>Once the bailiffs had medical evidence from Ms X they put her case on hold and did pause contact. The Council did the same once they received medical evidence.</p> <p>In the stage 1 complaint response the bailiffs accept the telephone staff were being "unfriendly" and spoke over Ms X as she was trying to explain she had long Covid. They apologised for this and said they would provide</p>

Service Area	Complaint	Finding
		<p>feedback to the manager of the member of staff.</p> <p>In response to my enquiries the Council have said that all accounts are now on hold and returned from the bailiffs.</p> <p>The Council say Ms X has had previous debts from other addresses which have all been written off. They are not pursuing her ex-husband for the debt at one of the addresses, as he lives abroad. When a debt is in more than one name, all people named are jointly liable for the whole debt.</p> <p>The Council has now granted Ms X Council Tax Support as she has a low income. , The Council say in their response to me it is unlikely she will be able to pay these debts. It will therefore put these debts forward for consideration for write-off.</p> <p>Even though Ms X is in receipt of Council Tax Support there will still be an amount payable for the next financial year which starts on 1 April 2022. The Council will set up an instalment plan and says Ms X must keep to these payments to prevent arrears building up again.</p> <p>My findings - I accept Ms X was suffering with Covid. She did not feel the Council or bailiffs were adequately taking this into consideration. However her contact with the Council and bailiffs was limited, and the effects of long Covid are a recent discovery.</p> <p>I do not find fault in the way in which the bailiffs carried out the debt recovery. Every time Ms X or her advocate got in touch they put the case on hold, awaiting further evidence.</p> <p>However I do find fault with the phone call Ms X had with the bailiffs on 19th April 2021. This caused Ms X upset and distress.</p> <p>I do not find fault in the Council's complaint response. They were thorough and responded to all Ms X's complaints.</p> <p>Summary: Ms X complains the Council passed her debt recovery on to Enforcement Agents (bailiffs) prematurely. She complains the bailiffs were aggressive and rude towards her even though she was vulnerable and suffering with the effects of long Covid. This caused her distress. We find fault with the bailiffs for a phone conversation they had with Ms X. They have apologised and no further remedy is necessary.</p>
<p>Council Tax – Upheld 20013376</p>	<p>Mrs B complains the Council wrongly added an empty property charge to her Council Tax account. She also complains it incorrectly told her to appeal to the valuation tribunal.</p> <p>She says although the Council acknowledged its mistake and refunded the money it failed to consider the unnecessary distress, time and trouble it caused her.</p>	<p>Mrs B says she told the Council the property was fully furnished but it still incorrectly applied the empty property charge over several years which cost her thousands of pounds.</p> <p>The Council's policy says an empty property is one that is "unoccupied and substantially unfurnished".</p> <p>The Council had opportunities to identify it had been incorrectly charging Mrs B the increased rate of Council Tax. Instead, it continued to say the charge was applied correctly and directed her to the valuation tribunal. This</p>

Service Area	Complaint	Finding
		<p>is fault.</p> <p>The Council only identified its error after we became involved. It could have put things right earlier, which would have avoided causing Mrs B unnecessary distress, time and trouble.</p> <p>Once it established its error the Council apologised and arranged a refund for Mrs B. It should also pay Mrs B the lost interest on the amount she overpaid between 2014 and 2021.</p> <p>Agreed action-</p> <p>Within one month of my final decision the Council agrees to:</p> <p>Pay Mrs B £250 in recognition of the unnecessary distress, time and trouble it caused her.</p> <p>Pay Mrs B the lost interest on the money it overcharged her. This should be calculated using the retail price index for the relevant period from 2014 to 2021.</p> <p>Within two months of my final decision the Council agrees to:</p> <p>Review the information it provides to residents about empty property charges. It should ensure the information is clear when the charge will be applied and what information the Council needs to make a decision.</p> <p>Review the Council's policy for empty property charging to ensure it does not incorrectly add this charge to properties that do not meet the definition.</p> <p>The Council should provide the Ombudsman with evidence it has completed the agreed actions.</p> <p>Summary: Mrs B complains the Council incorrectly applied an empty property charge to her council tax account. She also says it failed to identify its error in its complaint process. We find fault with the Council. The Council agrees actions to remedy the injustice.</p>
<p>Planning – Closed after initial Enquiries</p> <p>- 21017211</p>	<p>The complainant, whom I shall refer to as Mr X, has complained about how the Council dealt with his planning application. He says it took the Council too long to determine his application and officers did not communicate with him.</p>	<p>Mr X could have appealed to the Planning Inspector after eight weeks if he was unhappy with how long the Council was taking to determine his application. I consider it would have been reasonable for Mr X to have appealed. The Planning Inspector is independent and has the power to grant planning permission.</p> <p>Mr X has also complained the Council did not communicate with him about the application and says his requests for updates were ignored. Mr X says this made it difficult to plan for the works and could have resulted in financial losses. However, this is related to the matter which could have been appealed. The Ombudsman will not usually investigate when someone had a right to appeal to the Planning Inspector, even if the appeal would not address all the issues complained about.</p> <p>Furthermore, I cannot say Mr X has been caused any significant injustice because the Council did not update him about the application as it granted planning permission shortly after Mr X contacted it.</p>

Service Area	Complaint	Finding
		<p>Summary: We will not investigate this complaint about how the Council dealt with the complainant's planning application. This is because the complainant had the right to appeal to the Planning Inspector.</p>
<p>Planning -Closed after initial enquiries -21009633</p>	<p>The complainant, Mrs X, complains the Council relied on inaccurate information provided by her neighbour in deciding to grant planning permission for development on land near her home. She also complains she made a request for information from the Council's planning department but did not receive a response.</p>	<p>In deciding to grant planning permission for the development the Council referred to previous lawful use of the site. Mrs X disputes the Council's view on this issue and complains it based its decision on inaccurate information.</p> <p>We cannot question whether the Council's decision is correct just because Mrs X disagrees with it; we can only look to see if there was fault in the way it reached its decision.</p> <p>I have seen no evidence of fault by the Council in this case; in response to Mrs X's comments the Council sought further information from the applicant and was satisfied, on the balance of probabilities, that the information they provided was accurate. The planning officer's report addresses the issue and the Council's responses to Mrs X's complaint explain the decision in further detail. There was no requirement to refer the application to the Council's planning committee and I see no basis to criticise its decision to grant planning permission.</p> <p>Mrs X suggests that if the Council accepts the applicant's statements it may have missed out on unpaid business rates but we cannot look at this point further. This is because any injustice from it affects the public purse rather than Mrs X personally.</p> <p>We also will not investigate Mrs X's concerns about the Council's failure to respond to her 'freedom of information' request. This is because it would be reasonable for Mrs X to go to the Information Commissioner.</p> <p>Summary: We will not investigate Mrs X's complaint about the Council's handling of a planning application. This is because there is not enough evidence of fault by the Council. We will not investigate Mrs X's complaint about the Council's failure to respond to her 'freedom of information' request as it would be reasonable for her to take the matter to the Information Commissioner.</p>
<p>Other (no dept) – Closed after initial enquiries. 21006825</p>	<p>The complainant, I shall call Mr X, complains the Council failed to robustly and effectively scrutinise the closure of the local hospital Minor Injuries Unit (MIU).</p>	<p>The Council says its Health Overview and Scrutiny Panel scrutinised the closure of the MIU at its meetings between December 2020 and June 2021. It confirmed that the Chief Executive of the relevant NHS Trust and the Accountable Officer of the Clinical Commissioning Group had attended meetings. It also considered representations from councillors and members of a local health campaign group. It also shared information provided by Mr X with members of the Panel.</p> <p>The MIU has since reopened.</p> <p>Mr X is dissatisfied with the level of scrutiny carried out by the Council. But the Council considered the matter at meetings inviting senior officers from the NHS Trust and Clinical Commissioning Group to attend. A councillor referred to the campaign group (of which Mr X is a member) as well as some issues raised in their correspondence. There is not enough evidence of fault to justify the cost of an Ombudsman investigation.</p>

Service Area	Complaint	Finding
		<p>We consider complaints of administrative fault which has caused significant personal injustice to the complainant. Mr X says the Council's failure to robustly and effectively scrutinise the closure. However I do not consider this has caused him a significant personal injustice which warrants an investigation.</p> <p>Finally, as the MIU has now reopened, further investigation is unlikely to lead to a different outcome.</p> <p>Summary: We will not investigate this complaint about the way the Council examined the closure of a Minor Injuries Unit. There is not enough evidence of fault to justify the cost of an Ombudsman investigation. We do not consider the complainant has suffered a significant personal injustice. And, as the Unit has now reopened, further investigation is unlikely to lead to a different outcome.</p>
<p>Planning -Closed after initial enquiries -21002494</p>	<p>The complainant, I shall refer to as Mrs D, complains about the Council's issuing of a planning enforcement notice and subsequent action. This happened after her former husband, I shall call Mr E, carried out unauthorised work on a property they jointly own.</p>	<p>Mrs D says she co-owns a property with Mr E. She says Mr E advised her he would be enlarging the windows. Ms D says she did not consent to the work, however Mr E carried out the work anyway.</p> <p>The Council contacted Mrs D advising it had received a complaint about the unauthorised work. She says she told the Council she was not responsible, and they should contact Mr E.</p> <p>The Council advised Mrs D that joint owners are all responsible. It subsequently served an enforcement notice on the property owners.</p> <p>Mrs D says the Council was not sympathetic to her situation and serving the enforcement notice was excessive.</p> <p>If Mrs D believed the Council's actions were excessive, she could have appealed to the Planning Inspector.</p> <p>Summary: This complaint concerns the Council's issuing of a planning enforcement notice. We will not investigate as the complainant had a right to appeal to the Planning Inspector.</p>
<p>Other (no dept) Councillor Conduct and Standards 21000174</p>	<p>The complainant, who I refer to here as Ms C, has complained about how the Council had dealt with her concerns about a councillor. In summary, these concerns relate to the councillor's actions at a Council meeting and a comment on social media.</p>	<p>A council can consider complaints that a councillor has breached the Code of Conduct for elected members. We cannot investigate such complaints but can look at how a council dealt with a complaint about a councillor. However, we cannot question the council's decision on a complaint if there was no fault in how it was made.</p> <p>The Council's arrangements for dealing with complaints about alleged breaches of the Code of Conduct say the Council's Monitoring Officer will review every complaint and, after consultation with the Independent Person, decide if it should formally investigate. The Monitoring Officer should let the complainant know the decision and the reasons for it.</p> <p>I am satisfied the Council's Monitoring Officer considered both of Ms C's complaints and discussed them with the Independent Person before deciding they would not be further investigated. I am also satisfied the Monitoring Officer informed Ms C of those decisions and the reasons for them.</p> <p>Ms C would like the Council to state if the councillor breached the Code of Conduct. However, as the Council decided not to investigate, it did not make a finding on</p>

Service Area	Complaint	Finding
		this. Summary: We will not investigate how the Council has dealt with the complainant's concerns about the actions of a councillor. We are unlikely to find fault by the Council.
Referred back for local resolution (0)		

3.3 A copy of the Ombudsman's letter is attached as an appendix to this report.

3.4 Members may also wish to note that the small number of complaints reaching the Ombudsman is set against a background of **76** complaints received by the Council in the period in question, which helps to illustrate the strength of the Council in ensuring complaints are dealt with promptly and appropriately.

3.5 Below is a table showing Local Government Ombudsman figures for 13 Local Authorities which are similar in nature to the Council. The average for upheld complaints across the 13 is **54%**

	Complaints and enquiries received 2021/22		Figures for Upheld / Not upheld (detailed investigations carried out)			
			Decisions made 2021/22	Upheld	Not upheld	Total
Cannock Chase	5	0	0	0	0	0%
Castle Point	2	0	0	0	0	0%
Chorley	4	0	0	0	0	0%
Fenland	2	0	0	0	0	0%
Forest of Dean	5	1	0	1	1	0%
High Peak Borough Council	5	1	0	1	1	0%
Hinckley & Bosworth	5	4	1	3	4	25%
Kettering	1	1	1	0	1	100%
Rugby	9	5	2	3	5	40%
Selby	12	2	0	2	2	0%
South Derbyshire	5	0	0	0	0	0%
Staffordshire Moorlands	7	2	2	0	2	100%
Wyre Forest	3	1	1	0	1	100%

4. How this report links to Corporate Priorities

4.1 Ensure our services are easily available to all our residents in the appropriate channels and provided 'right first time'.

5. **Alternative Options**

5.1 There are none to consider

Mark Trillo
Executive Director (Governance & Commissioning)

**Web Links and
Background Papers**

Contact details

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