

THE OVERVIEW AND SCRUTINY COMMITTEE

14 SEPTEMBER 2015

COMPLAINTS RECEIVED BY THE COUNCIL

REPORT OF HEAD OF ORGANISATIONAL DEVELOPMENT

Contact Officer: Simon Howson Tel: 01962 848 104

Email: [showson@winchester.gov.uk](mailto:showson@winchester.gov.uk)

REFERENCES:

None.

EXECUTIVE SUMMARY:

This report summarises the various complaints that were received by the Council and recorded on the corporate complaints system during the year to 31 March 2015. The report also provides details on the complaints received by the Local Government Ombudsman, and the conclusions reached following their investigations.

Information specific to individual authorities including complaints referred to the Ombudsman, as well as the publication of the Ombudsman decision and decision statements, by category or authority can be found on the LGO website; [www.lgo.org.uk](http://www.lgo.org.uk)

RECOMMENDATION:

That the report be noted and that Members raise any issues arising from the complaints detailed in the report that they wish to investigate further.

THE OVERVIEW AND SCRUTINY COMMITTEE14 SEPTEMBER 2015COMPLAINTS RECEIVED BY THE COUNCIL 2014/15REPORT OF HEAD OF ORGANISATIONAL DEVELOPMENTDETAIL:1. Introduction

- 1.1 This report provides details of the complaints received against the City Council during the period 1 April 2014 to 31 March 2015, including a summary of complaints received by the Local Government Ombudsman (LGO) during the same period
- 1.2 The table below shows the number of complaints to the LGO that were settled during 2014/15. When considering these figures, it should be noted that they reflect complaints where the Ombudsman has issued a decision during that year and not complaints received during the year.
- 1.3 LCO – Local Authority Report – Winchester City Council  
For the year ending 31 March 2015

Complaints and enquiries received by the LGO by service area

Benefits and Tax	Corporate and other services	Environmental services and public protection	Highways and transport	Housing	Planning and development	Total
0	2	4	2	5	9	22

<b>Detailed investigations carried out</b>		Advice Given	Closed after initial enquiries	Incomplete / Invalid	Referred back for local resolution	Total
Upheld	Not Upheld					
2	2	2	8	2	6	22

#### 1.4 Complaints upheld by the Ombudsman

The table above shows that during the year 2014/2015 there were two complaints upheld by the Local Government Ombudsman. An upheld complaint is one where the Ombudsman 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 the Council has decided that there was fault and it caused an injustice to the complainant, usually the Ombudsman will have recommended that the authority take some action to address it.

1.5 Full details relating to the two upheld complaints and the Ombudsman's final decision is attached to this report as Appendix 1

#### 2. Council Complaints recording system

2.1 From October 2014, the Council migrated to using the Covalent Performance Management system to record, track and report complaints.

2.2 The Covalent system offers a purpose made feedback module for the recording and managing of complaints, FOI requests and compliments rather than the previously used in-house built database system.

2.3 The Covalent system provides a number of advantages to the Council over the previous system. These include a more robust approach to the management of complaints and FOI requests as well as having the functionality to analyse and report complaints by a number of different ways including by complaint type, complaint source and service.

#### 3. Customer complaints recorded on the Council complaints system

3.1 During the financial year 2014/15 there was a reduction of 26% in the overall number of complaints recorded across both complaints systems when compared to the previous year. A total of 452 complaints were recorded during 2014/15 and 611 in 2013/14.

3.2 The complaints recorded onto the previous system for the period 1 April 2014 to 30 September 2014 was 283, while a further 169 were recorded onto the Covalent system up until 31 March 2015.

3.3 The following table compares the total number of complaints recorded for the last five years.

Year	2010/11	2011/12	2012/13	2013/14	2014/15
No. of complaints recorder	554	509	628	611	452

- 3.4 The complaints recorded during the period April 2011 to March 2015 can be analysed by service area as follows:

<b>Service Area</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>
Building Control	0	0	7	0
Car Parks	29	67	49	43
Community Safety	0	0	0	1
Corporate Management Team	41	27	31	5
Cultural Services	2	4	5	1
Customer Services	6	3	6	7
Environment & Licensing	0	0	0	23
Estates	44	11	8	5
Historic Environment	0	0	0	1
Finance	5	1	3	3
Housing Services	124	151	185	124
I M & T	1	3	2	0
Joint Client (Waste)	129	197	183	102
Landscape & Open Spaces	0	0	0	9
Legal & Democratic Services	5	10	6	10
Organisational Development	0	2	0	1
Partnerships & Communication	0	2	2	0
Performance & Scrutiny	0	1	0	0
Planning Control	85	88	74	61
Revenues	37	54	49	27
Sport & Physical Recreation	0	0	0	1
Strategic Planning	1	3	1	12
Engineering & Transport	0	0	0	16
<b>TOTAL</b>	<b>509</b>	<b>624</b>	<b>611</b>	<b>452</b>

- 3.5 Complaints recorded against Corporate Management Team during the years 2011/12, 2012/13 and 2013/14 include requests for information from constituents via the local Member of Parliament. As these are not complaints, they are now recorded separately on the Covalent system. There were 110 MP requests for information of the Council during the period 1 October 2014 to 31 March 2015.
- 3.6 Complaints recorded against the Environment and Licensing service area during 2014/15 were previously recorded under the Joint Client heading, formerly known as Environment.
- 3.7 As the Joint Client Waste Contract beds in, the numbers of complaints are now reducing having peaked during 2012/13 when the new contractors started.
- 3.8 Before the migration to Covalent, complaints recorded against the Landscape Team were previously recorded against Environment. Almost all of the nine

complaints recorded during 2014/15 were from the public reporting works to trees or the removal of trees.

- 3.9 The complaints recorded against the Engineering and Transport Team relate to highway issues which are usually not the responsibility of the City Council. Where this is the case the details are passed to the County Council Highways department to respond to.
- 3.10 As well as reporting complaints by team or service, by using the Covalent system it is now possible to analyse complaints by type. This brings together complaints across services and gives a better insight into the reasons for the complaints.
- 3.11 The following table provides an analysis of the complaints that were recorded onto Covalent for the period 1 October 2014 to 31 March 2015.

Complaint Type	Number recorded
General Services – Council Decision	32
General Services – Missed Cyclical Service	5
General Services – Delay in Service	9
General Services – Enforcement Action	7
General Services – Contractor	10
General Services – Council Procedure	4
General Services – Other	4
Housing Services – Repairs and Maintenance	36
Housing Services – Tenancy Management	8
Housing Services – Estate Services	2
Housing Services – Allocations	6
Administration – Data Protection	2
Administration – All other	14
Premises Related	7
Staff Related	3
Other	20
<b>TOTAL</b>	<b>169</b>

- 3.12 The area with the largest number of complaints relates to Housing repairs and maintenance. However it should be noted that the Council is responsible for maintaining over 5,000 residential properties and raises over 20,000 individual repairs jobs each year. Also the recent Tenant Satisfaction Survey highlighted that 81% of tenants were satisfied with the service they had received (CAB2705(Housing) 30 June 2015 refers).
- 3.13 The second largest complaint type relates to Council Decisions and these predominantly relate to complaints about planning decisions.

#### OTHER CONSIDERATIONS:

4. COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO :)

4.1 The Council strives to be efficient and effective and to offer excellent customer services in its local communities. Enhanced information and learning from complaints and their causes will support the Council to achieve this objective.

5. RESOURCE IMPLICATIONS

5.1 There are no resource implications arising from this report.

6. RISK MANAGEMENT ISSUES

6.1 There are no specific risks associated with the recommendations put forward in this report.

BACKGROUND DOCUMENTS

Analysis of complaints from the Local Government Ombudsman is held on file by the Business Management Team. Note: detailed papers are exempt as they contain personal information.

APPENDICES

Appendix 1 Details relating to the two upheld complaints and the Ombudsman's final decision.

## **Details relating to the two upheld complaints and Ombudsman's final decision**

### Case 1

#### **The Ombudsman's final decision:**

**Summary:** the Council was not at fault for the way it dealt with Mr and Mrs C's planning application. Some comments from the case officer were not clear enough. An apology is satisfactory remedy for the injustice caused

#### **The complaint**

Mr B, is a planning agent. Mr B complained on behalf of Mr and Mrs C about the way the Council considered their planning application. Mr B complained the Council refused to allow Mr and Mrs C to put in an amended plan and certificate and instead told them to withdraw the application. Mr B complained the Council failed to stop the clock when he requested the Council cancel the application fee cheque. Mr B complained the case officer told him she would determine the application even though it was invalid. Mr B complained the Council told him to withdraw the application when an invalid application cannot be withdrawn. Mr B complained the Council failed to respond to his request for pre-application advice in November 2012.

#### **How the Ombudsman considered the complaint**

As part of the investigation, I have considered the complaint and Mr B's comments. I have made enquiries of the Council and considered the comments and documents that the Council provided. Finally, I have considered Mr B's comments on my provisional view.

#### **Background**

On 2 October the Council received the application fee and banked it. The next day Mr B asked the Council to return the cheque as he intended to pay electronically. On 7 October the Council told Mr B the cheque had already been banked. Mr B told the Council he had stopped the cheque.

Following the completion of the planning application validation process on 12 October the Council wrote to Mr B on 14 October to tell him it would process the application provided he paid the fee.

On 14 October the Council erected a site notice and told neighbours about the application.

On 18 October the Council received a replacement cheque from Mr B.

On 1 November one of Mr and Mrs C's neighbour's told the Council he owned some of the land included in the site. The Council told Mr B about that on 4 November. The Council said if the neighbour was correct it could not determine the application and Mr B would need to withdraw it.

On 4 November Mr B told the Council if the application was invalid he did not need to withdraw it and could correct the red line and complete the right certificate. Mr B later said he would confirm the extent of the site ownership and provide amended plans. The Council told Mr B he needed to withdraw the application and put in another as the application had been made valid and the certificate was wrong.

On 15 November Mr B asked the Council to invalidate the application. Mr B refused to withdraw it.

Mr B exchanged e-mails with the Council where he sought a refund of Mr and Mrs C's application fee to enable him to put in another application. The Council said it could not do that because the application had been made valid before the Council knew the ownership certificate had been incorrectly completed. The Council told Mr B that Mr and Mrs C could submit a further application as a 'free go.' Mr B continued to dispute the Council's interpretation and instead complained to the Ombudsman.

### **Analysis of Complaint**

The difficulty in this case occurred because Mr B/Mr and Mrs C completed the wrong ownership certificate when they put in the original application. Mr B believes the Council should in those circumstances have sought an amended ownership certificate rather than asking him to withdraw the application. He considers Mr and Mrs C are at a disadvantage because they have paid their application fee which will not be refunded if they withdraw the application. In putting in a further application with the correct ownership certificate they will also have used up their 'free go.' That view though is based on Mr B's belief that the Council should have treated the application as invalid. However, as Mr B is aware, the Council had validated the application and begun processing it. It was therefore not open to the Council to return the application to invalid status and begin the process again or allow Mr B to put in a new ownership certificate and plans. I therefore do not consider the Council at fault. I am satisfied any injustice to Mr B and Mr and Mrs C as a result of the delay is due to their actions in completing the wrong certificate, rather than any fault by the Council.

I am aware Mr B believes the Council should have carried out checks on the ownership of the land before validating the application. He believes if the Council had done that it would have identified Mr B/Mr and Mrs C had completed the incorrect ownership certificate. The Council would then have invalidated the application. That would have given Mr B the opportunity to put in a correctly completed ownership certificate or amend the red line plan. However, it is the applicant's responsibility to ensure the correct ownership certificate is completed. There is no requirement for the Council to check an ownership certificate is properly completed before validating an application. I therefore cannot criticise it for not doing so or for beginning to process Mr and Mrs C's application based on the documentation provided. The Council had validated the application and had no reason to know Mr B/Mr and Mrs C had completed the wrong certificate. As the application had been validated I could not say the Council was at fault for telling Mr B he would have to withdraw the application and submit a new one. I welcome the Council's willingness to accept a resubmitted application as a 'free go' though;



despite the fact the development site will not be the same as that previously applied for. The Council could have decided not to offer a 'free go' in those circumstances and I welcome its position here.

Mr B says the case officer told him the Council would still determine the application despite it being invalid. Mr B is referring here to an e-mail from the case officer where she says the application will be written up for refusal unless it is withdrawn by a specified deadline. The Council says the case officer meant she would close the case down, rather than assessing the application. The wording used in the e-mail is confusing though and I understand why Mr B would have thought she intended to determine the application. I recommend the Council apologise for the confusion. I do not consider any further remedy necessary given the Council did not determine the application.

Mr B complains the Council failed to stop the clock when he cancelled the original application fee cheque. It is clear from the documentary evidence the Council did not stop the clock because Mr B had told the Council he intended to provide another payment straightaway. In those circumstances, and as a new cheque was provided later that month, I do not consider the Council at fault for failing to stop the clock. In any case, as it later became clear Mr B/Mr and Mrs C had completed the wrong ownership certificate for the application I do not consider there is any injustice to Mr B or Mr and Mrs C as a result of the Council not putting the application on hold.

Mr B says the Council should not have told him to withdraw the application as an invalid application cannot be withdrawn. As I said earlier though, the point here is the application had been validated. I therefore cannot criticise the Council for telling Mr B he needed to withdraw it.

### **Final Decision**

I have completed my investigation and found there was fault by the Council in part of the complaint which caused injustice to Mr B/Mr and Mrs C. Although Mr B does not agree with my decision I am satisfied the action the Council will take is sufficient to remedy Mr B and Mr and Mrs C's injustice.

## Case 2

### **The Ombudsman's final decision:**

**Summary:** Mr B complained the Council failed to deal with a neighbour's planning application correctly. There was administrative fault but it did not cause an injustice.

### **The complaint**

Mr B complains that the Council failed to follow its policy for a planning application for development close to his home. Council Officers decided the planning application under delegated powers rather than referring it to the planning committee.

### **How the Ombudsman considered the complaint**

As part of the investigation I spoke to Mr B and considered the points he raised in his complaint. I also considered several emails supporting his complaint from other local residents. I made enquiries of the Council and considered its response to the complaint as well as visiting the site and Council offices to view the relevant files. Finally I interviewed members of the Council's Planning Committee.

### **Background**

In 2013 the Council's Planning Committee refused a planning application for a large modern extension to a bungalow close to Mr B's home. The proposed extension was timber clad with a flat roof and large areas of glazing. It increased the size of the existing bungalow significantly. Although the Committee refused the application, planning officers had recommended approval. The Committee's reasons for refusal stated:

*"The proposed development by reason of its size and design results in an incongruous feature, out of character with the existing dwelling and dominates the existing dwelling and does not therefore respond positively to the character and appearance of the local area..."*

A few months later the Council received a fresh planning application to develop the site. The new application proposed an extension of similar size, with large areas of glazing. However, the extension was brick built with a pitched roof which was more like the design of the existing bungalow.

The Council's rules state if "six or more representations, which the Head of Development Management considers relate to material planning considerations, are received from separate individual addresses which are contrary to the intended decision of the officer" the application should be decided by the Planning Committee. If there are less than six objections, applications may be delegated to and decided by officers.

At the time the case officer considered the application she had five objections. As a result she decided to approve the application under her delegated powers.

The case officer's report considered the representations made. She stated the design was more traditional. She noted the size of the proposed extension but she considered the plot was sufficient to prevent overdevelopment. The case officer considered the extension would not be detrimental to the character of the area and it would not adversely affect neighbour amenity. She also noted the parking provision for the development was in accordance with council policy.

The case officer concluded the application had overcome the reasons for the previous refusal.

After the decision had been made, the Council became aware that more objections existed. The Council explained that all its post is scanned into its systems when it is received. The post is then made available electronically to officers. In the days just before the end of the consultation period for this planning application the Council says there were problems in its scanning unit that led to delays scanning and sending on post. Because of these delays the Council had received objections the case officer was not aware of

### **Mr B's complaint**

Mr B complained that the application had not been considered properly. He stated as the Council had received more than six objections to this planning application, it should have been referred to the planning committee. This would have given him the chance to address committee members. Mr B stated, had the application been referred to Committee he would have highlighted the size and design of the application, the impact to neighbours and concerns about parking.

Mr B and another neighbour questioned the number of applications the planning department had received by 27 September 2013 when the consultation period ended. They felt regardless of the scanning issues the case officer should have had more than six objections. They also say a planning officer had commented the IT department was slow uploading objections to the website, so they felt the case officer should have checked that no other objections existed.

The Council accepts there was a failure to refer this planning application to Committee. This was administrative fault.

As Officers recommended the previous application for the site for approval, and the planning committee took a different view of it, I interviewed Committee Members to find out what their view of the application would have been.

I interviewed seven of the ten members of the planning committee. I asked the Committee Members whether they would have approved or refused the application. Six of the seven committee members told me they would have agreed with the officer recommendation to approve the application. Most commented that the design and pitched roof was much improved from the original, refused application. Although the size was similar to the original application, Members considered it was now in keeping with the area, and therefore acceptable.

**Analysis of Complaint**

There was administrative fault by the Council. It failed to refer a planning application to Committee when its policy required it to.

The Council explained this was an error in its scanning team which meant the planning officer did not have sight of all the objections the council had at the end of the notification period. Mr B and other residents dispute the reason for the error. But, however the problem occurred, the fault was that the application should have been referred to the planning committee and this did not happen.

The majority of Planning Committee Members told me, based on the plans and information available they would have approved the revised application for the site in accordance with the officer recommendation. Although Members had gone against the Officer's recommendation previously, they found the revised application was now acceptable.

I am satisfied that if the application had been referred to Committee, the Committee Members would have approved the application, so the outcome would not have been different. As the outcome would not have been different, no significant injustice was caused by the fault identified.

**Final Decision**

There was administrative fault by the Council. It did not lead to an injustice to Mr B or other local residents.