

## Annex 3

## Local Government and Social Care Ombudsman cases – decisions for April 2018 to November 2018

LGSCO Ref	Our Reference	Service Area	Directorate	Summary of Final Decision	Actions	Decision	Date of Final Decision
17017675	IGF/5305	Parking	EAP	The Ombudsman will not investigate this complaint about compensation for a cancelled parking penalty charge notice. There is insignificant injustice remaining to the complaint to warrant our involvement	Not investigated	Closed after initial enquiries/ no further action	04/04/2018
18008361	IGF/09801	Enforce - ment	HHASC	The Ombudsman will not investigate this complaint about a dog fine because there is insufficient evidence of fault by the council.	Not investigated	Closed after initial enquiries / no further action	08/10/2018
18009506	IGF/10057	Parking	EAP	The Ombudsman will not investigate the complaint about the Council's handling of her challenge to a penalty charge notice. If Mrs X disputed the contravention it would have been reasonable for her to appeal.	Not investigated	Closed after initial enquiries / no further action	29/10/2018
18008007	IGF/6914	Planning	EAP	Mr B complains the Council's consideration of a planning application he made was flawed and that it then failed to rectify the matter and to deal properly with his correspondence. Mr B needs to submit a fresh application, incurring additional costs. The Ombudsman finds there was fault by the Council as well as by Mr B in this matter. A financial remedy to reflect this finding has been agreed by the Council.	Process planning application at half fees. Issue an apology	Upheld – maladministration and injustice	20/11/2018

18006245	IGF/3697	Planning	EAP	The Ombudsman will not investigate this complaint. This is because the matter is out of time.	Not investigated	Closed after initial enquiries/ no further action	21/11/2018
17005221	IGF/1803	Special Education Needs	CSC	There was fault by the Council because of a delay in completing an education, health and care plan for the complainant's daughter. The Council agreed to provide a financial remedy to reflect the injustice suffered by the complainant's daughter. I found fault by the Council because of a delay in completing an EHCP for Ms X's daughter. I closed the complaint because the Council agreed to provide a financial remedy to Ms X's daughter.	Case closed as financial remedy of £750 agreed.	Upheld – maladministration and injustice	12/04/2018
17010002	IGF/4581	Civic	CCS	Mr X says councillors refused to discuss a planning application he opposed and a councillor with a conflict of interests failed to withdraw from the planning committee. The Council was at fault for failing to impress on councillors the importance of discussing applications with the public but this did not cause Mr X injustice. I find fault with the Council in that it failed to impress on councillors the importance of speaking to the public about planning applications. But I do not find that the fault caused injustice. I have not made any recommendations. I have closed my investigation.	Fault found but did not cause injustice, no recommendations and case closed	Not upheld and no injustice	13/04/2018

17011836	IGF/1850	Highways	EAP	<p>The Council failed to properly follow its policy and guidance when it replaced a street light outside Mr B's home. The Council has agreed to develop a new decision-making process and properly determine whether it should have replaced a 5-metre street light in a conservation area with a 6-metre column, which is a departure from its policy and guidance. It will also apologise to Mr B. I have completed my investigation and uphold Mr B's complaint. There was fault by the Council which caused him injustice. The action the Council has agreed to take is sufficient to remedy that injustice.</p>	<p>Within four weeks, the Council will</p> <ul style="list-style-type: none"> <li>• apologise to Mr B for the failings identified in this case;</li> <li>• develop a clear process to show how decisions about street lighting should be reached when the proposal does not accord with its street lighting policy, the 'City of York Streetscape Strategy and Guidance' or the views of the conservation team; and</li> <li>• send a copy of this process to the Ombudsman.</li> </ul> <p>Within eight weeks, the Council will:</p> <ul style="list-style-type: none"> <li>• follow this new process to properly determine whether it should have departed from its policy and replaced the 5-metre swan neck street light outside Mr B's home with a 6-metre column;</li> <li>• write to Mr B and the Ombudsman with its decision and evidence to show how it reached its decision. If the Council decides that it should not have installed a 6-metre column, it will arrange for remedial works to be carried out within four weeks of the decision.</li> </ul>	Upheld – maladministration and injustice	24/04/2018
17020382	IGF/7259	Civic	CCS	<p>The Ombudsman will not investigate Mr X's complaint as he is unlikely to find fault in the way the Council dealt with his code of conduct complaint about a councillor. I will not investigate this complaint</p>	Not investigated	Closed after initial enquiries / no further action	30/04/2018

				because I have not seen any evidence of fault in the Council's actions.			
17005114	IGF/4304	Information Governance, Complaints and Feedback	CCS	Mrs X complains about the way the Council considered her need for extra post-adoption counselling after it completed its Stage Two investigation of her complaint. She also complains that the Council gave misleading information to the Ombudsman during his investigation of her previous complaint. We have completed the investigation and found no evidence of fault by the Council. I have completed the investigation and found no fault with the Council's actions.	No fault	Not upheld/ No injustice	24/05/2018
18000757	IGF/5662	Business Rates	CCS	The Ombudsman does not have grounds to investigate this complaint that the Council had unreasonably charged business rates in respect of a commercial property. This is because there is no sign of fault by the Council. It also appears the ratepayer would need to approach the Valuation Office Agency to pursue any complaint about a delay in the rates listing process in his case. The Ombudsman does not have grounds to investigate Mr X's complaint that the council had unreasonably charged him business rates on his commercial property. This is mainly because there is no sign of fault by the Council. In addition it appears Mr X would need to raise any concerns he has about delay in the rates listing process with the Valuation Office Agency.	No grounds to investigate and no signs of fault	Closed after initial enquiries outside of jurisdiction	24/05/2018

18001336	IGF/6951	Planning	EAP	The Ombudsman will not investigate Miss X's complaint about the Council's failure to consult on her neighbour's planning application. The Council accepts fault and has apologised but we cannot achieve the outcome Miss X wants and it is unlikely investigation will achieve anything further for her. The Ombudsman will not investigate this complaint. This is because it is unlikely we could achieve any meaningful outcome for Miss X.	Will not investigate – council accepted fault	Closed after initial enquiries/ no further action	29/05/2018
17011448	IGF/2403	Registrars	CCS	The Council was at fault for issuing a marriage certificate with an incorrect date to Mrs X and Mr Y. The Council have apologised and agreed to issue an amended marriage certificate. The Council has agreed to remedy the injustice by providing Mrs X and Mr Y with a payment of £250 for the avoidable distress it caused and the time and trouble they spent pursuing the complaint and obtaining an amended marriage certificate. I have found fault with the Council and it has agreed to my recommendations to remedy the injustice caused to Mrs X and Mr Y.	To remedy the injustice caused, specifically the distress caused and the time and trouble they have spent in pursuing this complaint, within 4 weeks of my final decision the Council will make a payment of £250 to Mrs X and Mr Y. Within four weeks of my final decision the Council will arrange an appointment for Mr and Mrs X to witness the correction and provide them with an amended marriage certificate.	Upheld – maladministration and injustice	31/05/2018
17013769	IGF/2816	Licensing	EAP	Mr X complained the Council did not apply its Vehicle Licensing Policy fairly when it failed his vehicle's taxi test due to a tinted rear window. There is no fault in how the Council applied its policy. There is no fault with the Council's application of its policy when licensing Mr X's vehicle. Therefore, I have completed my	No fault and investigation closed	Not upheld/No injustice	01/06/2018

				investigation and closed this complaint.			
18001813	IGF/7298	Waste	EAP	The Ombudsman will not investigate Mr X's complaint that the Council took more than two weeks to deliver him a recycling box which he believes is second-hand. Mr X paid only £6 for the box and this is not a significant enough amount to warrant the cost of investigation. The Ombudsman will not investigate this complaint. This is because the actions Mr X complains about have not caused him significant injustice.	Will not investigate	Closed after initial enquiries/ no further action	07/06/2018
18002201	IGF/2232	Planning	EAP	The Ombudsman will not investigate Mr X's complaint that the Council failed to provide him with planning policy and guidance documents. It is unlikely we would find fault by the Council causing Mr X significant injustice. The Ombudsman will not investigate this complaint. This is because it is unlikely we would find fault by the Council causing Mr X significant injustice.	Will not investigate	Closed after initial enquiries/ no further action	14/06/2018
17014432	IGF/1826	Commissioning Provisions	HHASC	There was no administrative fault in the way the Council reached its decision to take into account all of Mrs B's Disability Living Allowance care component when assessing how much she should contribute to the cost of her care. The Ombudsman has not investigated Mrs B's complaint that the Council's decision was unlawful because the Ombudsman does not interpret legislation; this is a matter for the courts. I have completed my investigation and do not uphold Mrs B's	No fault	Not upheld/ no injustice	28/06/2018

				complaint. There was no fault by the Council.			
17019006	IGF/5222	Council Tax	CCS	Mr B complains the Council acted with fault in failing to contact him about his council tax arrears despite holding his contact details. There is no evidence of fault by the Council and we will not pursue the complaint any further.	No evidence of fault	Closed after initial enquiries/ no further action	29/06/2018
17010589	IGF/2128	ASC Assessment	HHASC	There is no fault by the Council in relation to this complaint from Ms X about decisions it took in relation to care it provided to her father, Mr Y. I have completed my investigation and made a finding of no fault by the Council in relation to the matters Ms X has complained about.	No fault	Not upheld/no further action	17/07/2018
18003525	IGF/7172	Social Care and Child Protection	CSC	The Ombudsman should not investigate Mr J's complaint about the Council's involvement with his family, because the issues are ones it would be reasonable for Mr J to raise in court. The Ombudsman will not investigate this complaint because the substantive issues are ones it would be reasonable to raise in court.	Will not investigate	Closed after initial enquiries/ no further action	17/07/2018
18004579	IGF/7169	Highways	EAP	The Ombudsman will not investigate Mr B's complaint about the Council's failure to maintain a public highway. It is reasonable to expect Mr B to use his right of remedy in the courts if he considers the Council is liable for the damage to his car. The Ombudsman will not investigate this complaint. This is because it is	Will not investigate	Closed after initial enquiries/ no further action	31/07/2018

				reasonable for Mr B to take the matter to court.			
18004395	IGF/8344	Benefits	CCS	The Ombudsman will not investigate this complaint that the Council failed to inform the complainant that changes to her circumstances might have meant she was entitled to Housing Benefit and Council Tax Support. This is because there is insufficient evidence of fault by the Council. The Ombudsman will not investigate Miss B's complaint.	Will not investigate Case closed	Closed after initial enquiries/ no further action	06/08/2018
17013420	IGF/0898	Housing standards	HHASC	Mrs X complains the Council failed to properly adapt the shower in her Council tenancy. My draft decision is there was fault in the way the adaptation was carried out meaning water got under the flooring. When this was corrected the repairs were not carried out to the same specification as the original adaptation resulting in a trip hazard. Mrs X has been put to unnecessary time and trouble pursuing this and been caused distress because of the work to the flooring. The Council should pay Mrs X £300 to recognise this and reassess her current needs to see what work is needed to make the shower safe. I have completed my investigation. This is because I have found fault causing injustice and the actions I have recommended provide a suitable remedy for this.	<ul style="list-style-type: none"> <li>• Within 8 weeks of my final decision the Council should:               <ol style="list-style-type: none"> <li>a) Apologise to Mrs X for the work not being carried out to the proper standard and in line with the agreed schedule of works.</li> <li>b) Pay Mrs X £300 for her time and trouble pursuing the complaint and distress caused as a result of poor standard of work to the flooring.</li> </ol> </li> <li>• Within 2 weeks of my final decision the Council should visit Mrs X to reassess her current needs and the layout of her bathroom to see what work is needed so that Mrs X is able to use her shower safely. Any work should be carried out within three months of my final decision.</li> </ul>	Upheld/ Maladministration and Injustice	29/08/2018



18007133	IGF/8063	Transport	EAP	The Ombudsman will not investigate this complaint about road works the complainant would like the Council to carry out. It is unlikely the Ombudsman would find that fault by the Council had caused the complainant injustice that warrants his involvement. I have decided we will not investigate this complaint. This is because we are unlikely to find fault by the Council has caused Ms B personal injustice that would warrant our involvement.	Will not investigate	Closed after initial enquiries/ no further action	05/09/2018
18008264	IGF/8720	Highways	EAP	The Ombudsman will not investigate this complaint about the Council's decision not to move a street light. This is because there is insufficient evidence of fault by the Council and because it is unlikely he could add to the Council's response.	Will not investigate	Closed after initial enquiries/ no further action	11/10/2018

17006785	IGF/3955	Children's safeguard - ing	CSC	<p>Ms X and Mr Y complain about what happened when their youngest son, who we shall call Z, was admitted to hospital. Ms X and Mr Y's son passed away whilst he was in hospital and whilst the family were subject to ongoing court action by the Council regarding their children. Ms X and Mr Y say the Council restricted their ability to spend time with Z when he was in hospital which limited the time they were able to spend with him before he passed away. Ms X and Mr Y complain the Council delayed dealing with their complaint under the statutory children's complaints procedure.</p>	<p>To remedy the injustice caused, we recommend the Council:</p> <ul style="list-style-type: none"> <li>• write to Ms X and Mr Y to apologise for the failure to review supervision arrangements for Z and the fact this meant they lost out on spending time with their son. The Council should also apologise for the delays in dealing with Ms X and Mr Y's complaint and for misleading them in relation to the reasons for those delays; and</li> <li>• pay Ms X and Mr Y £2000 for the distress caused as a result of the failure to properly review supervision arrangements whilst Z was in hospital. In reaching a view on the level of distress caused we have taken account of the fact Ms X and Mr Y missed out on spending time with Z which they cannot get back. We consider this would allow the family to spend quality time together, for example on a holiday. However, the family can choose to spend it how they wish. This payment is in addition to the monies already paid by the Council. The Council should take this action within three months of our final decision. The Council should also take the following action to ensure other people using it's services are not similarly affected:</li> </ul>	Report issued /upheld/ maladministration and injustice	16/10/2018
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					<ul style="list-style-type: none"> <li>• Review its existing policies to set out supervision arrangements which can be made available for parents or other relatives visiting looked after children in hospital.</li> <li>• Contact the second hospital and relevant council to develop a closer working relationship for when looked after children receive treatment outside the Council's area.</li> <li>• Review training needs of Council officers at all levels with regards to the statutory complaints process and relevant timescales.</li> <li>• Review the Council's handling of statutory children's complaints since September 2016 to ensure complaints are being dealt with in line with statutory timescales.</li> </ul>		
18009576	IGF/10176	Parking	EAP	The Ombudsman will not investigate this complaint that the Council will not accept objections about a Penalty Charge Notice by phone. This is because there is insufficient evidence of fault by the Council and insufficient evidence of injustice.	Will not investigate	Closed after initial enquiries/ no further action	01/11/2018

18003432	IGF/1739	Children's safeguard - ing	CSC	<p>Mr and Mrs B complain the Council wrongly started a child protection investigation and accessed their personal information without consent. There was fault because the Council did not complete the single assessment within prescribed timescales. This short delay did not lead to significant injustice as Mr and Mrs B chose to stop working with the Council during the assessment. I have completed my investigation. There was some fault on behalf of the Council in completing an assessment. This fault did not cause any significant injustice.</p>	Some fault but did not cause any significant injustice	Upheld/ maladministration / no injustice	08/11/2018
17016139	IGF/1127	Children's safeguard - ing	CSC	<p>Mrs X complains of failures by the Council in safeguarding her son, A. Although there were no safeguarding failures, there was other fault by the Council in the way it communicated with Mrs X. It will apologise and pay her £250 for the unnecessary worry and time and trouble this caused her. I have upheld the complaint and closed the case as the Council has agreed to offer a suitable remedy for the injustice caused by the fault found.</p>	<p>To remedy the injustice caused by the fault found, the Council will, within one month of the final decision:</p> <ul style="list-style-type: none"> <li>• Apologises to Mrs X for its poor communication and complaint handling, including sending the Stage 2 investigation report to the wrong address; and</li> <li>• Pays Mrs X £250 for her unnecessary worry and the time and trouble it has caused her in pursuing her complaint.</li> </ul>	Upheld/ maladministration and injustice	14/11/2018

18002045	IGF/2793	Information Governance, Complaints and Feedback	CCS	<p>Mr D says the Council misadvised him and his wife about flooding services during a telephone call. The Ombudsman has found some evidence of fault in the Council's complaint handling which the Council accepts. He is completing the investigation and upholding the complaint because the Council agrees to apologise to Mr D. It seems to me the Council's letter of 23 October failed to be clear about what evidence was considered and the reasons why. The subsequent complaints response did not sufficiently clarify this matter. This caused Mr D confusion and led him to believe that his original call had been recorded and was being withheld from him thereby propelling his further complaints.</p>	<p>I asked the Council to consider the following recommendations:</p> <ul style="list-style-type: none"> <li>• Send Mr D a letter of apology for the poor-quality complaints response he received in October 2017;</li> <li>• Remind complaints staff that letters need to be clear and specify what evidence has been considered.</li> </ul>	Upheld/ maladministration and no injustice	12/11/2018
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