



# Northumberland

## County Council

### Communities and Place Overview and Scrutiny Committee

**27 SEPTEMBER 2023**

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#### **LGSCO Public Interest Report**

Report of Cabinet Member Colin Horncastle Looking after our Environment

Executive Director of Housing and Planning (Chief Planning Officer)

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#### **Purpose of report**

A Public Interest Report has been issued by the Local Government and Social Care Ombudsman (LGSCO) in relation to a complaint raised by a neighbour of residential property that was granted planning permission for a rear extension.

In accordance with Section 31(2) of the Local Government Act 1974, "*The report shall be laid before the authority concerned and it shall be the duty of that authority to consider the report and, within the period of three months beginning with the date on which they received the report, or such longer period as the Local Commissioner may agree in writing, to notify the Local Commissioner of the action which the authority have taken or propose to take.*" Members are asked to consider recommendations made to rectify the situation in response to the Ombudsman's findings.

In a letter dated 05/05/23, the LGSCO confirmed that the Council would:

- a) pay Mr X £300. This payment was to recognise that there would be some loss of his privacy, for his time and trouble in bringing his complaint to our attention, and the disappointment and frustration caused by what has happened. This was to happen within one month from the date of the Ombudsman's final decision;
- b) attempt to negotiate with the developer to improve screening on the balcony to reduce direct overlooking towards properties either side of the site. The Council Were to offer to pay for the cost of improvements to screening and other necessary works. This was to happen within three months from the date of the Ombudsman's final decision;
- c) decide what action, if any, was justified in relation to Mr X's planning enforcement allegations and to proceed without further delay. The Council were to inform Mr X of the outcome of its enforcement decision;
- d) review the use of standard paragraphs in case officer reports to ensure that site specific details and reasons are included. This was to happen within three

months from the date of the Ombudsman's final decision;

e) consider whether it had the staff to deliver an adequate service and that staff have the support necessary to carry out their work. This was to happen within three months from the date of the Ombudsman's final decision.

The Council were to report what had happened and the outcome of the agreed remedies to the relevant scrutiny committee, so it could have oversight of any changes that are made. This was to happen within one month from the date the Ombudsman informed the Council the remedy was satisfied.

The Council are to provide the Ombudsman with evidence it has complied with the above actions.

### **Recommendations**

The Committee is recommended:

1. To receive the LGSCO's Public Interest report at Appendix A. The LGSCO has confirmed via email on 27<sup>th</sup> July 2023 that it is satisfied that the Council has completed all remedy actions as set out above, and that a report is to be considered by Members of Communities and Place Overview and Scrutiny Committee on 27<sup>th</sup> September 2023.
2. To note that officers have acted on recommendations in the report in that:
  - a. Mr X has been sent a letter of apology and been paid the remedy of £300 in recognition of a degree of loss of his privacy, his time and trouble in bringing his complaint to our attention, and the disappointment and frustration caused by what has happened.
  - b. Discussed with the applicants the matter of attaching screening to the balcony, which has now been done. An offer of payment by the Council was made, however, the applicant had attached screening of their own volition;
  - c. Investigated the lack of response from enforcement and offered an apology for the delay. An enforcement officer met with the applicant to discuss the points of complaint made by Mr X around use of materials and concluded that whilst some materials used were slightly different to those approved, they were acceptable. Mr X was advised of this position;
  - d. Have reviewed the use of standard paragraphs within officer reports in line with the Ombudsman's recommendations and produced a revised procedure note;
  - e. Recruitment and Retention has been a significant concern within the Planning Department for a long period of time. Recently, we have successfully recruited into a number of posts which is envisaged will assist with high workloads.
3. To note revisions to the Council's policy as set out at Appendix B.
4. To consider whether any further internal scrutiny is required in relation to the handling of LGSCO findings.

## **Link to Corporate Plan**

This report is relevant to the “living” priority in the Corporate Plan

### **Key issues**

The LGSCO identified the following key issues with the Council’s report in this case.

1. The Council use standard paragraphs to state the impact on amenities is acceptable, but there were no case specific details to show how the judgement was made. This resulted in service failures.
2. The outcome of the appraisal of the application would have been different had the impact on privacy been properly considered.
3. Mr X’s property does not directly adjoin the application property, however, some loss of privacy still occurred.
4. The Council’s response to Mr X’s original complaint by the enforcement team is fault.
5. The Council should assess the potential harm of any breach of control before deciding what action to take in respect of the immediately adjoining neighbours.
6. The Council were not at fault in their publicity of the application.
7. The Council failed in uploading an officer report as soon as it was available, which was a service fault. This was rectified as soon as this fault was identified and a failsafe check introduced which was satisfactory.

With regard to point 1, changes have been made in relation to the use of standard paragraphs which offers clearer guidance to planning officers. It describes that any more detail needs to be provided to evidence the officer’s appraisal of an application and to demonstrate all components of a proposal have been considered.

With regard to points 2 and 3 it is accepted that the outcome may have been different had the balcony, in this case, been adequately assessed. It is unlikely that the balcony would not have been permissible, however, appropriate screening would need to have been included.

With regard to point 4, It is accepted that the enforcement team did not offer a timely response to Mr X’s complaint. The enforcement team has an incredibly high workload and operates to a level of high to low priorities in listing their responses. The issue of materials to the neighbouring extension, in this case, was listed as a low priority, hence the lengthy delay in responding. Notwithstanding this, it is equally acknowledged that even based on those standards, the response was unacceptably late. The enforcement team are working hard to ensure this does not happen again.

With regard to point 5, the enforcement team has considered this point and do not consider any breach of condition has occurred.

With regard to point 6, this is noted.

With regard to point 7, this was human error. Once a report has been completed and authorised, it is ready to upload to the public access system. On this occasion, the upload did not happen and was immediately uploaded once the fault had been identified.

Being involved in this analysis has directly reinforced with staff the need for timely, clear, consistent, and well-reasoned decisions.

Council systems and process having also been considered; a procedure note has been produced to offer guidance to officers when compiling their reports and the content they need to consider, and a failsafe check has been introduced that stops decision notices being issued without an officer report having been uploaded.

### **Background**

A complaint was received from Mr X in relation to how the Council had considered a planning application at a neighbouring property, the impact of that decision on Mr X's privacy and the lack of notification of the proposed extension. This was responded to and escalated to the Council's 2-stage Corporate Complaint process on receipt of Mr X's second complaint. Mr X then escalated the matter to the LGSCO for independent consideration.

The LGSCO initially offered a draft finding in relation to this complaint on 27 February 2023, where they identified fault with the Council decision making and were likely to recommend that "there was service failure that caused an injustice that should be remedied."

The public interest report was published on 5 May 2023.

A copy of this report and the subsequent minutes will be provided to the LGSCO as evidence to conclude this matter.

### **Implications**

<b>Policy</b>	There are no direct implications
<b>Finance and value for money</b>	Payment of £300 in financial to individual complainant.
<b>Legal</b>	There are no direct implications
<b>Procurement</b>	There are no direct implications
<b>Human Resources</b>	There are no direct implications
<b>Property</b>	There are no direct implications
<b>Equalities</b> (Impact Assessment attached)	There are no direct implications

Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	
<b>Risk Assessment</b>	
<b>Crime &amp; Disorder</b>	There are no direct implications
<b>Customer Consideration</b>	Complaints are one of a range of methods by which the Local Authority receive feedback on the quality and consistency of our services. They are also invaluable for learning lessons and quality improvements.
<b>Carbon reduction</b>	There are no direct implications.
<b>Health and Wellbeing</b>	There are no direct implications.
<b>Wards</b>	All

**Background papers:**

Appendix A - LGSCO Public Report  
Appendix B – Procedure note on report writing

**Report sign off.**

***Authors must ensure that officers and members have agreed the content of the report:***

	Full Name of Officer
Monitoring Officer/Legal	Neil Masson obo Stephen Gerrard
Executive Director of Finance & S151 Officer	Jan Willis
Relevant Executive Director	Simon Neilson
Chief Executive	Dr Helen Paterson
Portfolio Holder(s)	Cllr Colin Horncastle

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