

STANDARDS COMMITTEE - 21ST JANUARY 2008

SUBJECT: REPORT FROM PUBLIC SERVICES OMBUDSMAN FOR WALES

REPORT BY: MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To note the report from the Public Services Ombudsman for Wales on a maladministration complaint made against Caerphilly County Borough Council.

2. LINKS TO STRATEGY

- 2.1 The Authority is under a statutory duty to consider reports from the Ombudsman and to give effect to their recommendations. The duty to oversee this is within the terms of reference of this Committee.

3. THE REPORT

- 3.1 Since 1st April, 2006 the Public Services Ombudsman for Wales ("the Ombudsman") has had jurisdiction under the Public Services Ombudsman (Wales) Act 2005. This Act has superseded but not completely repealed the previous legislation (Local Government Act 1974) and deals with maladministration complaints made to the Ombudsman.
- 3.2 There are two forms of report - Under Section 16 which is the form of report which needs to be formally considered by the Authority and Section 21 where the Ombudsman feels that a public report is not required and the matter has been satisfactorily resolved.
- 3.3 This report before Members is in relation to an Ombudsman report under Section 21 and the report is attached at Appendix 1.
- 3.4 The maladministration complaint arose from a complaint to the Ombudsman by persons identified in the report, as Mr. Smith who claimed that the Council wrongly permitted a first floor rear extension to his adjoining neighbours home, as a result Mr. Smith claimed he suffered inconvenience, the destruction of his previously good relationship with his neighbour and stress and anxiety causing ill health. He also claimed that the extension would result in a disruption in his residential amenity.
- 3.5 The Report sets out a detailed chronology of events and details the investigation undertaken by the Ombudsman. There are several different reasons to the complaint, all of which are set out clearly in the Report. Conclusions of the Ombudsman are set out in paragraphs 75-85.
- 3.6 The conclusions set out at paragraph 75 confirms that there was no maladministration in relation to the determination of the planning application for the erection of the extension.
- 3.7 Paragraphs 76-81 set out the conclusions in relation to the application by Council Officers of the provisions of the Party Wall Etc. Act 1985, Officers accept that the prescribed procedures were departed from, however by way of mitigation a flexible approach was adopted by the Council in the hope of achieving an early resolution.

- 3.8 Paragraphs 83-85 sets out the conclusions in relation to third aspect of Mr. Smith's complaint, relating to the failure by the Council to identify Mr. Smith's approach to the Council as a formal complaint.
- 3.9 The recommendations of the Ombudsman are set out at paragraphs 86 and 87 of the Report. It is recommended that:-
- (a) the Council should, for its shortcomings in connection with the application of the Party Wall Etc. Act 1985, apologise to Mr. Smith;
 - (b) ensure that Officers engaged in dealing with the Act, should ensure that procedures under the Act should be recorded appropriately;
 - (c) in relation to the handling of Mr. Smith's complaint, and in particular the failure to treat the complaint confidentially and inappropriately relaying information, the Council should apologise to Mr. Smith and pay the sum of £250 in recognition of the distress caused to Mr. Smith.
- 3.10 Relevant Officers have been consulted on the terms of the Report and the recommendations of the Ombudsman were accepted.

4. FINANCIAL IMPLICATIONS

- 4.1 The only implication to the Authority is in relation to the payment recommended by the Ombudsman, which will be met from existing budgets.

5. PERSONAL IMPLICATIONS

- 5.1 There are no personnel implications arising from the terms of the Report.

6. CONSULTATIONS

- 6.1 There are no consultation responses which have not been taken into account in the recommendations to this report.

7. RECOMMENDATIONS

- 7.1 That the Ombudsman's report be noted.

8. REASONS FOR THE RECOMMENDATIONS

- 8.1 To satisfy the Council's statutory duties under the Public Services Ombudsman (Wales) Act 2005.

9. STATUTORY POWERS

9.1 Public Services Ombudsman (Wales) Act 2005, Local Government Act 1974.

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Consultees: Chief Housing Officer, Assistant Director of Social Services, (Resourcing & Performance), Director of Corporate Services, Chief Executive Officer, Councillor Gerald Jones, Chair, Standards Committee

Background Papers:
None other than published documents

Appendices:
Appendix 1 Report of Public Services Ombudsman for Wales dated 10th October 2007 (**electronic copy not available**)