



## **STANDARDS COMMITTEE - 18TH JUNE 2015**

**SUBJECT: COMPLAINT MADE TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES - CASE NUMBER 201400849**

**REPORT BY: INTERIM HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

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### **1. PURPOSE OF REPORT**

- 1.1 To note the contents of the report from the Public Services Ombudsman for Wales on a complaint against Caerphilly County Borough Council.
- 1.2 To receive an update on the progress made to date in respect of the recommendations contained in the Ombudsman's report and action to be taken regarding outstanding recommendations.
- 1.3 To consider whether the matter would benefit from further consideration by the appropriate Scrutiny Committee. If Committee considers this course of action is appropriate a report setting out the reason for referral will be presented to the relevant Scrutiny Committee along with the report from the Ombudsman. The Chair of Standards Committee (or a nominee) will be invited to attend the respective Scrutiny Committee when the report is presented.

### **2. SUMMARY**

- 2.1 To note the Ombudsman's Report and to consider whether or not to refer the matter to the appropriate Scrutiny Committee.
- 2.2 To receive an update on the actions taken in respect of the recommendations contained in the Ombudsman's report.

### **3. LINKS TO STRATEGY**

- 3.1 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

### **4. THE REPORT**

- 4.1 Since 1st April, 2006 the Public Services Ombudsman for Wales ("the Ombudsman") has had jurisdiction under the Public Services Ombudsman (Wales) Act 2005.
- 4.2 There are two forms of report - a 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.

- 4.3 The report dated 30<sup>th</sup> April 2015 has been issued by the Ombudsman under Section 21 of the Public Services Ombudsman (Wales) Act 2005. A copy of the full anonymised report is annexed at Appendix 1 for members' consideration.
- 4.4 The complainant Mr A has post traumatic stress disorder (PTSD) and is disabled. In his complaint to the Ombudsman, he said that between July 2013 and February 2014 he was homeless but that the Authority removed him from the housing list without a valid or legal reason and had refused to explain its decisions to suspend his application and remove him from the list. He said that despite numerous requests the Authority failed to provide the information he requested. He also said that he had been victimised for making a complaint to the Council.
- 4.5 The Ombudsman upheld Mr A's complaint. The Ombudsman found that the Authority failed to properly consider Mr A's homelessness status and failed to recognise the threshold for homelessness inquiries, as set out in the relevant legislation. Further the Ombudsman found that there was delay in the Authority's consideration of Mr A's application and it was suspended several times without him being informed.
- 4.6 The investigation also criticised the Authority's consideration of Mr A's mental and physical health conditions (as part of the application process). As a result of the way in which the Authority assessed Mr A's health conditions, it took far longer to process his housing application than for an equivalent application from an able bodied person. The investigation concluded that the time taken by the Authority to consider Mr A's housing application was out of kilter with the aims of the Equality Act.
- 4.7 The Ombudsman found that Authority's record keeping and its handling of Mr A's complaints was also flawed. However the Ombudsman did not find evidence that the Authority victimised Mr A. He did however conclude that it should have made more effort to communicate with him in a way that he was more able to adapt to.
- 4.8 In his report the Ombudsman has made reference to a report issued under reference 201301753 in October 2014, which was considered by the Standards Committee on 24<sup>th</sup> November 2014. The 2014 report identified failings, some of which are similar to those in this case although the circumstances relating to Mr A's complaint arose prior to the October 2014 report. The Ombudsman has acknowledged that the authority has made good progress towards complying with the recommendations of the earlier report and that progress has been taken into account.
- 4.9 As a result the Ombudsman made the following recommendations
- 4.9.1 Within one month of the date of the report, the Authority should:
- a) Give Mr A an unreserved apology for its failure to comply with the relevant legislation and statutory guidance when assessing his housing application.
  - b) Make a payment to Mr A of £1000 in recognition of the impact of those failings which includes the uncertainty as to whether he would have been offered accommodation if the Authority had commenced homelessness inquiries and assessed his application properly.
  - c) Immediately (at the latest within one month) reassess Mr A's housing application, ensuring that assessment fully complies with legislation and statutory guidance. Mr A must then be given a written decision that fully complies with legislation and guidance.
- 4.9.2 Within one month of the date of the report, the Authority should also formally remind staff:
- a) To comply with housing legislation and statutory guidance.
  - b) That they must maintain appropriate contemporaneous records of all contact with housing Applicants.

- 4.9.3 Within two months of the date of the report, the Authority should consider whether the staff involved in this case would benefit from additional communications training from a mental health organisation. If such further training is considered necessary it should be completed within four months of the date of this report.
- 4.9.4 Within four months of the date of this report, the Authority should undertake a review of the Housing Department's record keeping methods, to ensure that the records maintained
- a) comply with legislation
  - b) enable officers to support existing tenants and new housing applicants effectively.
- 4.9.5 As part of the preparation for the introduction of its new allocation scheme in April 2015 the Authority should include the SHN (Special Housing Needs) form and OT (Occupational Therapy) assessment processes in the EIA.
- 4.9.6 Within one month of the due date of each the Ombudsman requires evidence to demonstrate that the Authority has complied with these recommendations. The Ombudsman also requires the Authority to give him a copy of the template letters which the Authority says now advise applicants that their application has been suspended and that they have a right of appeal.
- 4.10 Members are asked to note the recommendations set out in the Ombudsman Report.
- 4.11 The Council's Housing Department accepted the findings and agreed to implement the recommendations, and at the time of writing this report the following progress has been made regarding the recommendations. A further update will be provided to Members at the meeting.

Recommendations 4.9.1 (a) and (b)

The Chief Executive has written to the complainant in accordance with these recommendations and payment of £1000 has been made.

Recommendation 4.9.1 (c)

Mr. A's application has been re-assessed in line with legislation and statutory guidance and the outcome of this assessment has been communicated in writing to Mr. A.

Recommendation 4.9.2 (a)

Since receipt of the Ombudsman report staff within the Housing Allocations and Advice Team have attended detailed training on the new homelessness legislation that was introduced on the 27<sup>th</sup> April 2015 as part of the Housing Wales Act 2014. This training was provided by an external consultant on behalf of Homeless and Supporting People Network, which was established by the WLGA. This training was provided on the 18<sup>th</sup> and 19<sup>th</sup> May, 2015. Presentation slides have been provided by the trainer and this will be used to provide and support further training in-house as and when required to cover any staff changes.

Recommendation 4.9.2 (b)

A staff meeting was held on the 22<sup>nd</sup> May 2015 to remind officers that they must maintain appropriate contemporaneous records of all contact with housing applicants. This will also be followed up with a procedure document that will be developed following the conclusion of an audit on record keeping for the department, which can then be used by all staff and referred to as part of the induction process for new starters.

#### Recommendation 4.9.3

This recommendation has been considered and it has been accepted that staff would benefit from additional communications training from a mental health organisation. Contact has been made with a specialist provider to deliver such training and details of dates are currently awaited. A training and development strategy will also be compiled to ensure that staff receive ongoing training which is appropriate to the needs of the service.

#### Recommendation 4.9.4

The Council's Information Unit has been contacted to undertake an initial audit of the Housing Departments record keeping methods to ensure such records comply with legislation and enable officers to support housing tenants and new applicants effectively. Dates for this audit are to be confirmed. Following this audit a procedural document will be developed to ensure that staff are appropriately informed and guided in relation to record keeping.

#### Recommendation 4.9.5

As part of the preparation for the new housing allocations scheme, a review of the Special Housing Needs Procedure and Occupational Therapist Assessment will be incorporated as part of the Equalities Impact Assessment.

#### Recommendation 4.9.6

Documentary evidence for Recommendations 4.9.1 (a) (b) & (c), 4.9.2 (a) and (b) and 4.9.6 in relation to the template letter have been submitted to the Ombudsman as requested.

### **5. EQUALITIES IMPLICATIONS**

- 5.1 None arising from the contents of the report.

### **6. FINANCIAL IMPLICATIONS**

- 6.1 The payment referred to in paragraph 4.9.1(b) has been met from existing budgets.

### **7. PERSONNEL IMPLICATIONS**

- 7.1 There will be personnel implications as a result of staff training required as part of some of the recommendations. These actions can be undertaken within existing staff resources.

### **8. CONSULTATIONS**

- 8.1 This report reflects the contents of the Ombudsman's Report and therefore there has been no formal consultation on the format of this report. A copy of this report and appendix has been provided to the consultees listed below.

### **9. RECOMMENDATIONS**

- 9.1 That the Committee notes the contents of the Report and progress made to date in respect of the recommendations contained in the Ombudsman's report and action to be taken regarding outstanding recommendations.
- 9.2 To consider whether the matter should be referred to the appropriate Scrutiny Committee, the grounds for referral are where in the opinion of the Standards Committee there has been a

serious failure in service delivery that would benefit from further consideration by the appropriate Scrutiny Committee. If Committee considers this course of action is appropriate a report setting out the reason for referral will be presented to the relevant Scrutiny Committee along with the report from the Ombudsman. The Chair of Standards Committee (or a nominee) will be invited to attend the respective Scrutiny Committee when the report is presented.

## **10. REASONS FOR THE RECOMMENDATIONS**

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

## **11. STATUTORY POWER**

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

Author: Gail Williams, Interim Head of Legal Services and Monitoring Officer  
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Councillor K. Reynolds, Leader  
Councillor D Poole, Deputy Leader and Cabinet Member for Housing  
Diane Holdroyd, Chair of Standards Committee

### Appendices:

- Appendix 1 Report of Public Services Ombudsman for Wales 30<sup>th</sup> April 2015