

EAST AYRSHIRE COUNCIL

CORPORATE GOVERNANCE COMMITTEE – 16TH NOVEMBER, 2004

SCOTTISH PUBLIC SERVICES OMBUDSMAN ACT 2002 - REPORT BY THE SCOTTISH PUBLIC SERVICES OMBUDSMAN ON AN INVESTIGATION INTO A COMPLAINT AGAINST EAST AYRSHIRE COUNCIL - REF. E.COMM130

Report by the Depute Chief Executive/Director of Corporate Support

1. PURPOSE OF THE REPORT

- 1.1** To provide the Committee with an update in respect of the outcome of an investigation by the Scottish Public Services Ombudsman into a complaint against East Ayrshire Council in respect of a housing matter.

2. BACKGROUND

- 2.1** Under the Scottish Public Services Ombudsman Act 2002, the Ombudsman can investigate matters where there is a claim that a member of the public has sustained injustice or hardship in consequence of maladministration, service failure or other action by a Local Authority.
- 2.2** On receipt of a complaint the Ombudsman seeks comments and information on the complaint from the Local Authority in question, to assist in the Ombudsman's inquiries. The Ombudsman having received such information can then decide to carry out a formal investigation, as was the case in respect of this complaint.
- 2.3** On receipt of the Ombudsman's formal response in respect of this complaint appropriate action was taken in terms of both the Council's obligation to consider and respond to the Ombudsman's findings and recommendations and the statutory requirement for publication of the Ombudsman's report.
- 2.4** In this regard, it was noted that certain administrative actions had already been taken within the Finance Service relative to the wording of the application form used for Council Tax discount and it was separately remitted to the Director of Neighbourhood Services to prepare for the consideration of the Housing Committee an appropriate policy with procedural guidelines to tenants in respect of requests for extended periods of absence by tenants, which was subsequently implemented, an appropriate policy since having been approved by the Housing Committee on 19th May, 2004 and subsequently by full Council on 24th June, 2004. All of this has been reported back to the Ombudsman who has confirmed she finds the actions taken by the Council in this regard to be appropriate.

- 2.5** There was, however, one outstanding matter relative to a recommendation by the Ombudsman that the former Director of Homes and Technical Services should offer an apology to the complainer in respect of certain advice which had been given by him to the complainer during the series of events which had given rise to the complaint. At the meeting on 31st March, 2004 the Committee agreed to continue consideration of this particular issue to allow certain aspects to be explored further with the Ombudsman.

3. DISCUSSION

- 3.1** Further to the Committee's decision of 31st March 2004, further clarity of the factual and legal basis of the Ombudsman's recommendation that the former Director of Homes and Technical Services should offer an apology to the complainer has been pursued in a series of correspondence with the Ombudsman.
- 3.2** The Ombudsman has clarified that this recommendation was based on the view that the advice given by the former Director contradicted information/advice previously given to the complainer by the former Director's staff at an earlier stage in the process which gave rise to the complaint, as opposed to the actions of the former Director in giving the advice in question or, indeed, the specific content of that advice in terms of its appropriateness/accuracy. The Ombudsman has also made it explicitly clear that notwithstanding the various points raised by the Council she remains of the view that an appropriate apology should be issued to the complainer and her recommendation to that effect accordingly stands.
- 3.3** Against this background it is now considered that the Council has pursued matters as far as it reasonably can and the former Director of Homes and Technical Services has now acted in respect of the Ombudsman's recommendation and issued an appropriate apology to the complainer. A copy of that letter of apology will be forwarded to the Ombudsman, together with a copy of this report and confirmation of the outcome of the Committee's further consideration of the matter.

4. LEGAL/POLICY/FINANCIAL IMPLICATIONS

- 4.1** There are no such implications arising directly from this report, all policy matters having been dealt with previously as outlined in Section 2 of the report.

5. RECOMMENDATION

5.1 It is recommended that the Committee:-

- (i) note the updated position in respect of this matter and the action taken in furtherance of the outstanding recommendation of the Scottish Public Services Ombudsman;
- (ii) remit to the Head of Administrative and Legal Services to formally report back to the SPSO in respect of this matter; and
- (iii) otherwise to note the contents of this report.

Elizabeth Morton

Depute Chief Executive/Director of Corporate Support

DM/SM

3rd November, 2004

BACKGROUND INFORMATION

1. Scottish Public Services Ombudsman report dated 4th March, 2004 - Case Ref. 020374/E.COMM130.

For further information please contact David Mitchell, Head of Administrative and Legal Services, telephone (01563) 576061.

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