



To: Executive Councillor for Environment and Waste,
Councillor Peter Roberts

Report by: Head of Legal Services and Head of Streets and
Open Spaces

Relevant scrutiny Environment Services Scrutiny 20/6/2016
committee: Committee

Wards affected: Abbey, Market, West Chesterton

**FINDING OF FAULT WITHOUT INJUSTICE BY THE LOCAL
GOVERNMENT OMBUDSMAN RELATING TO A MOORING LICENCE
Not a Key Decision**

1. Executive summary

1.1 The Local Government Ombudsman has upheld a complaint relating to the provision of temporary accommodation. The LGO found that Council was not at fault in refusing to grant Mr Y a second sole residential license permitting him to use its riverside moorings after he separated from his partner. It was at fault through delay in considering his representations about the matter. But, he was able to continue living on the river during this period. So, he did not suffer significant injustice.

1.2 In these circumstances, the Head of Legal Services, as the Council's Monitoring Officer, has an obligation to report the findings to the Executive. The Executive is obliged to set out what action has already been taken in respect of the findings, what action it intends to take and the reasons for taking the action.

1.3 This report summarises the complaint and sets out the action taken in response.

1.4 The Executive Councillor is asked to consider the action taken and to decide whether it is adequate or whether further steps should be taken.

1.5 The full report is appended.

2. Recommendations

The Executive Councillor is recommended:

To endorse the actions taken by officers in response to the finding of the Local Government Ombudsman.

3. The Complaint and the Ombudsman's Decision

3.1 The complaint

The complainant, referred to as Mr Y, complained that the Council:

- a) had wrongly denied advising him that a residential mooring license held jointly by a married/cohabiting couple could be split into two separate licenses if they separated;
- b) had failed to properly consider his appeal against the Council's refusal to grant him a sole license for the boat on which he now lives; and
- c) had failed to take effective enforcement action against widespread noncompliance by other license holders with the terms of their agreements.

3.2 The Ombudsman's final decision

The Ombudsman's final decision in respect of a) was that, as the Investigator acting on behalf of the Ombudsman had not seen evidence that the Council told Mr Y it would grant him a second sole license if he separated from his partner, he could not conclude that the Council was at fault in relation to this point.

The Ombudsman's report concludes, in respect of b), that the Council's way of considering Mr Y's appeal was adequate. The Investigator found that there was delay in responding to contact from Mr Y regarding the grant of a sole licence. He also noted that It took almost six months for the Council to decide Mr Y's appeal. There was delay by both Mr Y and the Council. While the Investigator considers that the Council's delay amounted to fault, he does not consider that this caused Mr Y significant injustice.

The Investigator did not consider part c) of Mr Y's complaint because:

- Mr Y raised this issue in an earlier complaint to the Ombudsman;
 - She decided she would not pursue this issue in the absence of injustice to Mr Y;
- and

- The Ombudsman will not reconsider a complaint about which she has already made a decision in the absence of new evidence.

4. Response to the Ombudsman's findings

Officers have amended the Mooring Licence to reflect the advice given by the Ombudsman. The Licence now clarifies the position where a joint licence has been terminated, whether by notice or by surrender, because one or more of the licence holders has ceased to occupy the boat as their only permanent residence.

The Council may in the Council's absolute discretion grant a further licence to one of the former licence holders provided that they are continuing to occupy the boat as their only permanent residence. The Council shall be under no obligation to grant a further licence.

Anyone aggrieved by the Council's decision not to grant them a further licence following termination of a joint licence may appeal in writing to the Executive Councillor for Environment and Waste. The Council must receive the appeal within 10 days of the date of the Council's decision.

5. Implications

- (a) **Financial Implications** There are no financial implications.
- (b) **Staffing Implications** There are no staffing implications.
- (c) **Equality and Poverty Implications** There are no equality or poverty implications.
- (d) **Environmental Implications** There are no environmental implications.
- (e) **Procurement** There are no procurement implications.
- (f) **Consultation and communication** The Monitoring Officer is obliged to consult the Head of Paid Service (Chief Executive) and the Chief Finance Officer (Head of Finance) in preparing this report, and has done so.
- (g) **Community Safety** There are no community safety implications.

6. Background papers

The Ombudsman decision letter is appended to this report. There are no other background papers.

7. Appendices

The Local Government Ombudsman's decision letter.

8. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

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