



Committee and Date

Council

16<sup>th</sup> July 2020

Item

Public

**LOCAL GOVERNMENT OMBUDSMAN REPORT - FINDING OF FAULT WITH INJUSTICE**

**Responsible Officer**

e-mail: Claire.porter@shropshire.gov.uk Tel: 01743 252763 Fax 01743 252795

**1. Summary**

This report is presented to Members as required by legislation following an investigation into a complaint to the Local Government & Social Care Ombudsman (LGSCO) which related to a particular planning matter.

**2. Recommendations**

That Members note the content of the LGSCO report attached at Appendix 1 and the actions taken to date, together with those proposed, in order to comply with the LGSCO's recommendations.

**REPORT**

**3. Risk Assessment and Opportunities Appraisal**

- 3.1 The Local Government Act 1974 requires the Council on a finding of maladministration to consider the LGSCO's report within three months of the date of receipt of the report (or such other period as agreed with the LGSCO) and to notify the LGSCO of the action which the Council propose to take or that which they have taken. Failure to do this will result in a further report from the LGSCO.

In light of the fact that the LGSCO's report made recommendations which required a separate regulatory decision to be taken by the Council and the timing of the scheduled Council meetings, the LGSCO agreed to an extension of time in which to bring this report to Council for consideration.

#### **4. Financial Implications**

- 4.1 The decision of the LGSCO required the Council to make a number of financial payments as set out in its report attached at Appendix 1. The recommendations required the Council to meet the cost of the erection of a new demountable fence of £17,165, to agree a future maintenance contribution toward the fence (the cricket club has agreed a fixed one off payment of £1000 in respect of future maintenance). the LGSCO also required the Council to pay for the cost of the trajectory report commissioned by Hinstock Cricket Club (£480) and to meet the cost incurred by the cricket club in hiring alternative venues to play £877.80. The cost of the LGSCO recommendations is £19,522.80.

#### **5. Climate Change Appraisal**

- 5.1 There are no climate change implications arising from this report.

#### **6. Background**

- 6.1 The LGSCO has investigated a complaint made against the Council and as a result has issued a report which Members will find attached at Appendix 1. Members will note that the report has been anonymised to protect the identity of the complainant.
- 6.2 Members will note from the Report Summary at page 3 of the report that the complaint related to a planning matter and in particular that *“the Council failed to consult with Sport England, before approving a planning application for development next to the home ground of a cricket club he represents. This meant the development was constructed without measures to mitigate the risk of damage from cricket balls.”*
- 6.3 The finding of the LGSCO as set out at page 3 of the report. The LGSCO considered there is fault causing injustice and recommendations were made. The recommendations are:

*“...To remedy the injustice identified in this report, we recommend the Council:*

- meets with the club to agree the most appropriate ball-strike mitigation measure. The agreed solution should be of adequate height and length to protect the new development, in accordance with the trajectory report. Once agreed, it is for the Council to seek the most cost-effective quote for the work. However, it should ensure the work is complete before the beginning of the 2020 cricket season.*
- offers to reimburse the club for its cost in commissioning the trajectory report.*

*The Council has agreed to the above recommendations. However, we also*

*recommend the Council:*

- *agrees to bear financial responsibility for future maintenance of the fence. It is for the Council and club to determine the best way to implement this, but the agreement should be made in writing by the time the fence is completed.*

- *offers to reimburse the club for its costs in hiring an alternative venue*

6.4 The Local Government Act 1974 requires the Council, where there has been a LGSCO report and a finding of maladministration, to publicise the finding in the local press and make copies of the report available to the public. These requirements have been complied with so far as possible in light of Covid-19 restrictions. In addition the legislation states that the report “...shall be laid before the authority concerned and it shall be the duty of that authority to consider the report and... to notify the Local Commissioner of the action which the authority have taken or propose to take.”

6.5 In this instance all actions recommended by the LGSCO either have or are in the process of being complied with. The only outstanding matter is the erection of a new demountable net to be erected when cricket matches are being played. This has been commissioned and is in the process of installed.

## **7.0 Conclusions**

7.1 In light of the statutory requirement to present the LGSCO’s report to Members, Members are asked to note the actions taken as a result of the complaint and to note the LGSCO’s report.

<b>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</b>
<b>Cabinet Member (Portfolio Holder)</b> <b>Councillor Peter Nutting &amp; Gwilym Butler</b>
<b>Local Member</b>  Rob Gittins
<b>Appendices</b> Appendix 1 – Anonymised report of the Local Government Ombudsman dated 24 January 2020