

ANNUAL ASSEMBLY

27 April 2021

Title: Response to LGO Complaint ref 18018324	
Report of the Cabinet Member for Finance, Performance and Core Services	
Open Report	For Information
Wards Affected: Chadwell Heath	Key Decision: No
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Accountable Director: Matthew Cole, Director of Public Health	
Accountable Strategic Leadership Director: Elaine Allegretti, Strategic Director, Children & Adults	
Summary <p>The Local Government and Social Care Ombudsman (LGO) investigated a complaint against the London Borough of Barking & Dagenham (reference number: 18 018 324) and returned their final report on 15th January 2021 (Appendix 1). The complainant (referred to as Mrs D) complains the Council failed to take appropriate action after she raised concerns of a cancer cluster in her neighbourhood in April 2018.</p> <p>The LGO upheld the complaint and provided a number of recommendations for the London Borough of Barking and Dagenham to undertake. The Council acknowledges fault and accepts responsibility. All of the recommendations have been actioned by the council, including a stage 1 investigation of the potential cancer cluster in line with Public Health England guidance (Appendix 2). This investigation found no evidence of a potential cancer cluster or of environmental contamination in the area stated. Measures have also been taken to prevent this situation from happening again.</p> <p>The report was discussed with the resident on 10/03/2021 and it was agreed that the investigation would not progress to stage 2 due to lack of evidence that a cancer cluster was present. The summary report was finalised (Appendix 3) and shared with the resident on 18/03/2021.</p>	
Recommendation <p>The Assembly is recommended to note the LGO report and actions taken in response to the complaint findings.</p>	
Reason(s) <p>The council has accepted fault and acted upon the recommendations of the LGO in order to improve the way in which we service our residents. The new process for dealing with enquiries will allow all residents to have their concerns dealt with in a timely and</p>	

appropriate way to improve service-user experience and satisfaction with our service. It will also mean that any resident reports of this nature are dealt with quickly, residents are given answers to their concerns, and the council is able to take any necessary actions to protect health. Internal awareness of public health duties has obviously improved due to their role in Covid, but further action will be taken to promote the wider role of public health across the council.

1. Introduction and Background

- 1.1 The Local Government and Social Care Ombudsman (LGO) investigated a complaint against the London Borough of Barking & Dagenham (reference number: 18 018 324) and returned their final report on 15th January 2021 (final report as Appendix 1). The complainant (referred to as Mrs D) complains the Council failed to take appropriate action after she raised concerns of a cancer cluster in her neighbourhood in April 2018. She did not receive responses on a number of occasions, the Council only provided a stage 2 response after the complainant went to the LGO, and then she was wrongly signposted to the Environment Agency.
- 1.2 The Council acknowledges fault and accepts responsibility.
- 1.3 The LGO upheld this complaint and gave the following recommendations for completion by the Council within three months of the date of this report (15/01/2021) in that it should:
 - provide the personal remedy it has offered Mrs D, which is to investigate her reports of a cancer cluster and pay her £750 to recognise the distress, uncertainty and confusion its faults have caused her.
 - develop a procedure detailing its expectations for teams dealing with reports of non-infectious disease clusters. The procedure should:
 - be written to run alongside Guidance issued by Public Health England;
 - ensure there is no 'wrong door' to reports of this kind;
 - note the need for careful record keeping.
 - consider how it can use this report and the new procedure, to raise internal awareness of its public health duties; and
 - consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended).

2. Proposal and Issues

- 2.1 The Council acknowledges fault and accepts responsibility for this complaint. The council agrees to the LGO recommendations and has actioned them. The steps taken in response to the LGO's recommendations are listed in the table below.

LGO recommendations and status of action

Recommendation	Actions	status
Payment of £750	PO raised, payment requested.	Complete
Investigate reports of a cancer cluster	Stage 1 investigation report – complete Completed report discussed with resident via phone on 10/03/2021. Agreement reached with resident to stop investigation at this stage and send her the report.	Complete
Develop a procedure detailing its expectations for teams dealing with reports of non-infectious disease clusters	Procedure developed and agreed with Environmental health – complete Process agreed and implemented with contact centre – ongoing	In progress
Consider how it can use this report and the new procedure, to raise internal awareness of its public health duties	To be further discussed at Internal leadership forums.	In progress
Consider the report (at its full Council, Cabinet or other appropriately delegated committee of elected members) and confirm within three months the action it has taken or proposes to take	Booked for assembly on 27 th April 2021 (this is after the 3 months deadline but it has been agreed with the LGO)	In progress – booked in
Publish notice of this in the local paper	Communications team will do this – wording and budget code were supplied.	Complete

Prevention of future occurrence

- 2.2 To prevent this situation from happening again, a provisional process for handling of non-infectious disease reports has been drafted and agreed with Environmental Health. This will be agreed and enacted with customer contact services to ensure that any calls of this nature are appropriately directed, addressed and responded to in a timely manner. Environmental Health and Public Health will continue to work together to ensure that all reports are investigated and responded to in an appropriate and timely manner.

Cancer Clusters

- 2.3 A cancer cluster occurs when there are more cases of the same type (or similar types) of cancer than expected are diagnosed in a group of people, geographic area and/or period of time. Although most cancer clusters occur by chance, it is not uncommon for people to be concerned that cancer clusters are caused by exposure to a cancer-causing agent in the environment. Many apparent non-infectious disease clusters have no cause but in rare cases, clusters may be related to community based external sources (e.g. common environmental exposures).
- 2.4 Real clusters that are proven to be associated with an environmental or occupational carcinogen are extremely rare. Even if there are more people with one type of cancer in a community than might be expected, this does not necessarily mean that they were all caused by a cancer-causing agent in the environment.
- 2.5 People who are born after 1960 have a one in two lifetime risk of cancer – this means that one in two people in this age group will develop cancer at some point in their life (before they reach 85). This risk can vary in people depending on their family history and lifestyle (e.g. occupation, smoking, diet, etc).
- 2.6 In Barking and Dagenham, seeing cancer is not unusual, especially with our high smoking rates and industrial heritage. Barking and Dagenham has higher rates of prostate cancer, lung cancer and ‘all cancers’ when compared to England as a whole.

Investigating clusters

- 2.7 The Health and Social Care Act 2012 specifies that one of the public health duties of local authorities is the responsibility, led by their DPH, to investigate reports of non-infectious disease clusters. We are required to follow the Public Health England guidance for investigating non-infectious disease clusters from potential environmental causes (Appendix 2).
- 2.8 The Stage 1 investigation, which is to gather vital information, develop rapport with reporter and confirm or disprove the suspicion of a cluster, has been completed. The potential outcomes which can occur from Stage 1 are:
1. If contact with the reporter of the cluster results in both you and the reporter being satisfied that no further investigation is necessary, **STOP** further investigation, and prepare a summary report for the reporter and communicate your conclusions as appropriate to all parties involved.
 2. If the reporter is not satisfied, but the information suggests that the cluster is not of public health importance, **STOP** further investigation, and prepare a report, communicate your conclusions as appropriate to all parties involved.
 3. If from public health point of view, **further investigation** is required, **PROCEED** to stage 2a.
- 2.9 Unless there are commonalities in the types of cancer and the exposures, it is highly unlikely that this would progress to Stage 2a.

3. Options Appraisal

- 3.1 Following previous assurance board discussion on this matter on 11th February 2021, Public Health have taken advice from a Consultant in Communicable Disease Control at the London Public Health England Health Protection branch and from the Public Health England National Cancer Registration and Analysis Service (PHE NCRAS).
- 3.2 Public Health have then undertaken a Stage 1 investigation (following PHE guidance) and found no evidence of a cancer cluster in this MSOA and no evidence of environmental contamination which could be linked to cancer.
- 3.3 The results of the investigation were as follows:

Environmental health report

- This report concluded that there were **no records suggesting that this land had been contaminated or was unsuitable for residential occupation**, the land had previously been open fields before the houses were built between the first and second world wars.
- The report also looked at 2020 modelled annual average concentrations of Nitrogen Dioxide (NO₂), and Particulate matter (PM₁₀ and PM_{2.5}) and found that in the Woodlands Avenue area that the 3 major air pollutants that are measured were **not exceeding limits** set in the UK.

Public Health England

- To determine whether there is evidence of a cluster in the Lower Super Output Area (LSOA) in question, Public Health England National Cancer Registration and Analysis Service (PHE NCRAS) has interrogated the national cancer registry data for the last 10 available years (2008 – 2018).
- These results show that, without age standardisation, the actual (crude) rates of cancer in the LSOA of interest are lower than the England average, as the population in this LSOA is younger than on average in England.
- The age standardised rates are higher in the LSOA of interest than the age standardised rate in Barking and Dagenham, but this difference is not statistically significant. This means that it is very unlikely that the rates in the LSOA in question are actually higher or lower than the rates in Barking and Dagenham as a whole
- Public Health England National Cancer Registration and Analysis Service also reviewed the distribution of types of tumour in this LSOA. The distribution that they found did not suggest a cluster. The most common cancers in this LSOA were breast, prostate, colorectal and lung, which are the four most common cancers in England as a whole. The distribution of these tumours broadly resembled the distribution of types of tumour that is expected in England as a whole.
- Based on the analysis done, Public Health England National Cancer Registration and Analysis Service reported that the data suggests that there

is **no evidence of a cancer cluster** in this LSOA and that cancer rates in this area were not significantly different to those of the rest of Barking and Dagenham. **They recommended that further investigation was not necessary.**

Outcome

- 3.4 The report was discussed with the resident on 10/03/2021 and it was **agreed that the investigation would not progress to stage 2 due to lack of evidence that a cancer cluster was present.** This is option 1 in PHE's suggested outcomes from a stage 1 investigation "*If contact with the reporter of the cluster results in both you and the reporter being satisfied that no further investigation is necessary, **STOP** further investigation, and prepare a summary report for the reporter and communicate your conclusions as appropriate to all parties involved.*" The summary report was finalised (Appendix 3) and shared with the resident on 18/03/2021. As yet, we have received no response from the resident.

4. Consultation

- 4.1 This matter was discussed in internal leadership groups and with the Cabinet Member for Health and Wellbeing to agree steps for addressing the LGO's complaint findings.
- 4.2 This matter was discussed at Assurance board on 11th February 2021, who gave agreed next steps for investigation of the potential cancer cluster and feedback on steps being taken to address the other complaint findings.
- 4.3 The matter was again put to assurance board on 8th April 2021 following completion of the Stage 1 investigation. They endorsed the Director of Public Health's recommendation to stop the investigation (in line with Public Health England guidance for investigating non-infectious disease clusters from potential environmental causes) following findings from the Public Health England National Cancer Registration and Analysis Service and Environmental Health and a discussion with the resident, and the other actions being taken to address the LGO's other recommendations.

5. Financial Implications

Implications completed by Philippa Farrell – Head of Service Finance:

- 5.1 The LGO recommendations outlined at 2.1 in the report are being met from existing Public Health Services resources. The Council has paid the sum of £750 as compensation to the complainant on the recommendation of the Local Government and Social Care Ombudsman (LGO). The payment was funded from existing resources of the Public Health Services.

6. Legal Implications

Implications completed by: Dr. Paul Feild, Senior Governance Lawyer

- 6.1 The Councils Constitution (Part 2 Chapter 4 (xvi)) provides that the Assembly shall receive reports and recommendations from the Ombudsman and Government or other Inspectorates.
- 6.2 The Local Government Ombudsman was established by the Local Government Act 1974. Its role is to investigate complaints about 'maladministration' and 'service failure' by councils and certain other bodies. This includes individuals, organisations or companies providing services on the Council's behalf. The Ombudsman will also consider whether any fault has had an adverse impact ('injustice'). If fault has caused an injustice, the Ombudsman will make a report as in this case which the Council must consider and provide evidence to that effect that it has done so and it shall confirm to the Ombudsman within three months the action it has taken or proposes to take.
- 6.3 In this report the fault has been identified and accepted by officers and a proposed way forward identified and action taken.

7. Other Implications

- 7.1 **Risk Management** - Steps have been taken to ensure that something similar doesn't occur again (including a process for handling of non-infectious disease reports and discussions on how awareness of the public health role and duties can be increased internally).
- 7.2 **Staffing Issues** - No impact on staffing levels. The only change for staff will be the process by which enquiries and reports about potential disease clusters will be handled. This process will be clearer, with designated responsible staff in Public Health and Environmental Health to deal with enquiries.
- 7.3 **Corporate Policy and Equality Impact** – There will no specific impacts on groups with protected characteristics. The new process for dealing with enquiries will allow all residents to have their concerns dealt with in a timely and appropriate way to improve service-user experience and satisfaction with our service. It will also mean that any resident reports of this nature are dealt with quickly, residents are given answers to their concerns, and the council is able to take any necessary actions to protect health.
- 7.4 **Health Issues** - The impacts of actions taken should have a positive impact upon any residents contacting the council to report potential clusters of non-infectious disease, as these reports will be handled smoothly and by the right department, avoiding a repeat of this situation in this future.

Public Background Papers Used in the Preparation of the Report:

- United Kingdom and Ireland Association of Cancer Registries (UKIACR) - Factsheet: Cancer Clusters (June 2017) - <https://www.ukiacr.org/sites/ukiacr/files/file-uploads/publication/UKIACR%20Cancer%20Cluster%20Factsheet.pdf>

List of appendices:

- **Appendix 1** - Local Government Ombudsman final complaint report (LGO 2021)
- **Appendix 2** - Guidance for investigating non-infectious disease clusters from potential environmental causes (Public Health England 2019)
- **Appendix 3** - Potential Cancer Cluster Investigation report