

## ASSEMBLY

30<sup>th</sup> September 2020

<b>Title:</b> Report of the Local Government Ombudsman	
<b>Report of the</b> Cabinet Member for Finance, Performance and Core Services	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> No
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<b>Accountable Director:</b> Claire Symonds Acting Chief Executive	
<b>Summary</b> <p>Part of the role of the Local Government Ombudsman (LGO) is to investigate complaints which are submitted to their service. As part of the investigative powers of the LGO they can, when necessary, produce formal reports.</p> <p>A formal report has recently been produced by the LGO after carrying out an investigation into the way the Council dealt with and managed the application for a blue badge under the non-visible (hidden) disabilities criteria.</p> <p>The complaint deals with the dissatisfaction of the complainant that the Local Authority rejected the application for a Blue Badge without first fairly assessing and failing to review the application when a request was made.</p> <p>As a result of the report the Local Authority have taken steps to action the recommendations which were set by the LGO including re-assessing Mr X's application and undertaking a review of how the service is offered to residents.</p>	
<b>Recommendation(s)</b> <p>Assembly are recommended to note:</p> <ul style="list-style-type: none"><li>• the report as issued by the Local Government Ombudsman, its publication, and the notice that has been published in local news sources.</li><li>• the action taken thus far to remedy the complaint as directed.</li></ul>	
<b>Reason(s)</b> <p>It is a requirement of the Local Government Ombudsman to present to Assembly complaints which result in a formal report being published. The appended report details the recommendations which are to be undertaken by the Council.</p>	

## **1 Overview of the report**

- 1.1 The LGO's report is attached at Appendix 1.
- 1.2 The LGO have found fault in the Local Authorities process for application and appeals for a Blue Badge namely the non-visible (hidden) disabilities which caused injustice to the complainant (Mr X).
- 1.3 The LGO found that the Local Authority failed to properly assess the application for a Blue Badge. Following the determination which was provided to Mr X the Council failed to further review the application when requested by the applicant. This is found to have had an adverse impact on those applicants who were not successful in applying for a Blue Badge under the new criteria for the non-visible (hidden) disabilities.
- 1.4 Fault was found as the Local Authority failed to keep a record of the original application and supporting documents which were provided as part of the process. This impacted on the Authorities ability to clearly evidence reasons as to why Mr X was not eligible for a Blue Badge automatically and why an offer was not made for eligible subject to further assessment.
- 1.5 Further fault was found by the LGO in the rejection of the application. It was found that the letter did not clearly provide reasons for the unsuccessful application and the next steps which could be taken to assist the complainant.

## **2 Remedy proposed by the Ombudsman**

- 2.1 Included in the formal report are a number of remedies which have been produced by the Council which need to be completed by the end of October 2020 and provide evidence to satisfy the LGO that we have complied with the recommendations as set out.
- 2.2 The LGO has recommended that the Council review its procedures to make sure it is assessing Blue Badge applicants using both tests for eligibility in line with guidance.
- 2.3 In respect of the complainant, the LGO has recommended that the Council re-assess the application and should this not be successful, offer the opportunity for an appeal to be undertaken.

## **3 Proposed actions**

- 3.1 The Council, as part of its focus on the customer journey, has been reviewing customer facing processes. An application for a blue badge currently comes into the customer services team and part of the review will focus on whether this is the correct place to receive such an application.
- 3.2 The Council are currently amending the process maps for the service as a whole, including initial application, renewing badges and appeals. The aim of this review is to ensure that the Local Authority are adhering to the published guidance on processing applications for both visible and non-visible disabilities whilst also providing a seamless service to the residents.

#### 4 **Publication of the report**

- 4.1 The report was published on 18<sup>th</sup> August 2020. A notice, as required, was published in the Barking and Dagenham Post on 19<sup>th</sup> August 2020.

#### 5 **Recommendations and Action Taken**

<b>Recommendation</b>	<b>Action</b>
Apologise to Mr X to recognise the time and trouble he was put to because of this matter.	An apology was sent to Mr X as directed.
Assess Mr X's eligibility for a Blue Badge, using both tests set out in the guidance issued by the Department for Transport for issuing Blue Badges. If he does not automatically qualify, it should explain the outcome to him. The Council should make sure the assessment is in line with the guidance	Mr X was invited to resubmit an application for a blue badge. Assessments have been undertaken and determinations have been provided to Mr X. The outcome of the further assessment upheld the initial decision.
Review its procedures to make sure it is assessing Blue Badge applicants using both tests for eligibility in line with the guidance;	A review of the service was scheduled to occur, as part of this review processes for applications will be reviewed and amended as necessary.
Carry out training for relevant staff to make sure they are aware of the procedures	Once the review has been completed training will be provided to staff
Implement an appeals procedure, in line with the guidance for refused Blue Badge applicants;	Appeals procedure is in place and this is published on the web page and will be included in any rejection letter.
Keep its records about unsuccessful Blue Badge applications for at least a year so it can respond to any complaints and these complaints can be reviewed by us	The Local Authority agree with this recommendation and all applications will be kept for a period of 1 year to enable reviews to take place if required.
Amend its information and records policy to show how long it will keep Blue Badge records in future	Policy will be updated to reflect information being stored for a period of 1 year.
Invite any rejected applicants from the last six months to submit their applications for reconsideration.	Guidance has been placed on the Blue Badge page of the website inviting anyone who applied for a blue badge in the last 6 months under Non-Visible Disabilities to reapply using the original documentation. This course of action was agreed by the LGO to satisfy the recommendation.

**6. Financial Implications** completed by: Katherine Heffernan, Head of Service, Finance

6.1 Working with the LGO and responding to investigations and recommendations is part of the Council's normal activities. The actions set out in this report are carried out by existing staff and there are no further financial implications.

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

7.1 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').

7.2 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.

7.3 If fault has caused an injustice, the Ombudsman will make a report which the Council must consider and provide evidence to that effect and it shall confirm to the Ombudsman within three months the action it has taken or proposes to take. In this report to the Assembly the fault has been identified and accepted by officers and a proposed way forward identified.

**8. Other Implications**

8.1 None

**Public Background Papers Used in the Preparation of the Report:**

- None

**List of appendices:**

- Appendix 1: Report by the Local Government & Social Care Ombudsman Investigation into a complaint against London Borough of Barking & Dagenham (reference number: 19011 326)