

Committee Name and Date of Committee Meeting

Audit Committee – 12 April 2018

Report Title

Local Government Ombudsman – Confidential Report A

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Sharon Kemp, Chief Executive

Report Author(s)

Phil Horsfield, Monitoring Officer

01709 823833 or Phillip.horsfield@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

This Report sets out that the Local Government Ombudsman has provided findings in relation to a complaint and has directed that these findings are not made public as to do so would mean identifying the complainant.

Recommendations

The Committee Resolves:

That under Section 100(A) 4 of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12(A) of such Act indicated, as now amended by the Local Government (Access to Information) (Variation) Order 2006.

List of Appendices Included

None

Background Papers

None.

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Local Government Ombudsman Report

1. Background

- 1.1 The Council has received a Report from the Local Government Ombudsman (LGO) that makes a finding of Maladministration.
- 1.2 The LGO has directed that the Report be kept confidential as disclosing the Report would identify those to whom it relates. As a consequence, the Report will be considered by the Committee in private.

2. Key Issues

- 2.1 This Report sets out why the Council is required to hold this section of the Meeting in Private.
- 2.2 Section 30(3) of the Local Government Act 1974 requires the LGO to report without naming or identifying the complainant or other individuals. The people involved in this complaint are therefore referred to by a letter or job role in Report that is provided. There is a general rule that Council's cannot disclose any information to third parties that could identify the complainant or other individuals referred to in the Report.
- 2.3 The LGO have further powers under Section 30(7) of the Local Government Act 1974 to direct that a report is not made available to members of the public or advertised in the press.
- 2.4 This direction includes a requirement that the Council's formal consideration of the report does not make public the content of the Report.
- 2.5 The Council's general approach for confidential matters is to ensure that we release as much information as possible however in light of the Direction the whole of this item should be considered in confidential session. Should the Committee decide to consider this item in open session this would be likely to breach the right to a private and family life contained in the Human Rights Act 1998 in addition to the Direction described above.

3. Options considered and recommended proposal

- 3.1 There are 2 options available to the Committee to consider the matter in open or confidential session.
- 3.2 In light of the Direction of the Ombudsman it would be unlawful for the Council to consider this matter in open session and therefore the recommendation is made for the Committee to consider the issue in confidential session.

4. Consultation on proposal

- 4.1 There has been no consultation on this proposal as the Direction has come from the LGO.

5. Timetable and Accountability for Implementing this Decision

5.1 This Decision in this Report is for implementation by the Committee.

6. Financial and Procurement Advice and Implications

6.1 There are no financial or procurement implications arising from this Report.

7. Legal Advice and Implications

7.1 The Legal implications are set out in the body of the Report and in particular paragraphs 2.2, 2.3 and 3.2.

8. Human Resources Advice and Implications

8.1 There are no HR implications arising from this Report.

9. Implications for Children and Young People and Vulnerable Adults

9.1 Should the Committee decide to consider this matter in public then it would be likely to result in private information being made available able children and young people and/or vulnerable adults. Therefore the recommendations in the Report ensure that the personal information of people falling within these Groups are protected.

10. Equalities and Human Rights Advice and Implications

10.1 There are no Equality Issues arising from the Report.

10.5 The Human Rights Act 1998 (which came into force in October 2000) incorporates into UK domestic law rights and freedoms guaranteed under the European Convention on Human Rights. It introduced new responsibilities on public authorities to act compatibly with the convention rights and allows for a case to be brought in a UK court against authorities if they fail to do so. It is important, therefore, for the Human Rights Act implications of any proposals to be thought through and dealt with, where relevant, in a separate paragraph in the Report.

11. Implications for CO₂ Emissions and Climate Change

11.1 There are no Climate Change implications arising as a result of this Report.

12. Implications for Partners

12.1 There are no implications for Partners from this Report.

13. Risks and Mitigation

13.1 The Risks and Mitigation are set out in the Report above.

Accountable Officer(s)

Phillip Horsfield, Monitoring Officer

Approvals obtained on behalf of:

	Named Officer	Date
Chief Executive		Click here to enter a date.
Strategic Director of Finance & Customer Services (S.151 Officer)	Named officer	Click here to enter a date.
Assistant Director of Legal Services (Monitoring Officer)	Named officer	Click here to enter a date.
Assistant Director of Human Resources (if appropriate)		Click here to enter a date.
Head of Human Resources (if appropriate)		Click here to enter a date.

Report Author: Phillip Horsfield, Monitoring Officer, 01709 823833 or Phillip.horsfield@rotherham.gov.uk

This report is published on the Council's [website](#).