

## ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE

<b>Date of Meeting</b>	Tuesday, 10 March 2020
<b>Report Subject</b>	Complaint made to the Public Services Ombudsman for Wales
<b>Cabinet Member</b>	Cabinet Member for Planning and Public Protection
<b>Report Author</b>	Chief Officer (Planning, Environment and Economy)
<b>Type of Report</b>	Operational

### EXECUTIVE SUMMARY

The purpose of this report is to share the details of a complaint made against Flintshire County Council that was investigated by the Public Services Ombudsman for Wales in 2019.

### RECOMMENDATIONS

1	Members are asked to note the content of the report by the Public Services Ombudsman for Wales.
2	Support the actions taken by Planning, Environment and Economy as outlined in paragraphs 54 and 55 of the report as set out in Appendix 2.

### REPORT DETAILS

<b>1.00</b>	<b>Explaining The Public Services Ombudsman for Wales Public Interest Report</b>
1.01	Under Section 16 of the Public Services Ombudsman (Wales) Act 2005, the Ombudsman issued a public interest report on 9 January, 2020 about the Council's failure to take timely and appropriate action to deal with a car wash which was causing Statutory Nuisances of noise and water/chemical spray affecting a nearby property and which was also in breach of planning control. The complainant also complained that the Council failed to investigate and respond to its complaint appropriately and in line with the corporate complaints policy.

1.02	An anonymised copy of the full report is attached as Appendix 1. The report is anonymised so that, as far as possible, any details which might cause individuals to be identified have been amended or omitted.
1.03	The Ombudsman found that despite identifying in 2014 that the car wash was causing a Statutory Nuisance, the Council did not open an appropriate case file until 18 months later and did not serve an Abatement Notice for a further 13 months. When the car wash continued to operate and cause the Statutory Nuisance, contravening the Abatement Notice, the Council took no further action.
1.04	The Ombudsman also found that the Council failed to respond to the complaint appropriately and escalate matters when it asked for assistance to raise a formal complaint.
1.05	<p>Following the publication of the report a number of actions in response to the report have been implemented. These actions include:</p> <ul style="list-style-type: none"> <li>a) Staff have been reminded of the importance of dealing with correspondence appropriately, including signposting individuals who want to raise a formal complaint to the Customer Services Team;</li> <li>b) The Chief Officer for Planning, Environment and Economy has apologised in writing to the Landlord and included £1000 financial redress in recognition of the failings in complaints handling and the Landlord's time and trouble pursuing the complaint for at least 5 years;</li> <li>c) The Chief Officer for Planning, Environment and Economy has apologised in writing to the complainant and included £2500 financial redress for the failure to deal with Statutory Nuisances and in recognition of the persistent and prolonged exposure to unacceptable levels of noise and water spray for at least 5 years.</li> </ul>
1.06	In addition to the actions outlined above, Planning and Public Protection are establishing what powers remain available to them to resolve the issues and reach resolution. Public Protection is also reviewing the Enforcement Policy to ensure that it remains relevant, effective and compliant with Welsh Government guidelines, legislation and best practice, with particular reference to Statutory Nuisances.
1.07	Planning and Public Protection are developing formal procedural arrangements for co-operation between departments to improve the efficacy and efficiency of inter-departmental collaboration, with an emphasis on Planning, Legal and Environmental Health. They are also considering how human rights can be embedded into its practice when deciding whether to take enforcement action and reviewing internal communication and escalation channels.
1.08	The corporate complaints policy will be reviewed to ensure it is clear who should have overall responsibility for investigating and responding to complaints where the matters concern different departments in the Council.

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	None applicable in relation to this report.

<b>3.00</b>	<b>IMPACT ASSESSMENT AND RISK MANAGEMENT</b>
3.01	None applicable in relation to this report.

<b>4.00</b>	<b>CONSULTATIONS REQUIRED/CARRIED OUT</b>
4.01	The Council has a duty under Section 17 of the Public Services Ombudsman (Wales) Act 2005 to publicise the report and make it available to the public at its offices and via its website. The Council complied with this duty and publication was made on 23 January, 2020.

<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix 1 – The investigation of a complaint against Flintshire County Council – Case 201900014.
5.02	Appendix 2 – Current status in relation to the recommendations of the PSOW.
5.03	Appendix 3 – Enforcement Audit Scope

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	None.

<b>7.00</b>	<b>CONTACT OFFICER DETAILS</b>
7.01	<b>Contact Officer:</b> Andrew Farrow, Chief Officer <b>Telephone:</b> 01352 704523 <b>E-mail:</b> <a href="mailto:andrew.farrow@flintshire.gov.uk">andrew.farrow@flintshire.gov.uk</a>

<b>8.00</b>	<b>GLOSSARY OF TERMS</b>
8.01	<b>Public Services Ombudsman for Wales</b> - investigates complaints by members of the public concerning maladministration, failure in a relevant service or failure to provide a relevant service by any "listed authority" in Wales.