



Cabinet

North Tyneside Council

31 March 2017

Monday, 10 April 2017 Room 0.02, Ground Floor, Quadrant, The Silverlink North, Cobalt Business Park, North Tyneside **commencing at 6.00pm**

Agenda Item	Page(s)
1. Apologies for Absence	
To receive apologies for absence from the meeting.	
2. To Receive any Declarations of Interest and Notification of any Dispensations Granted	
You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.	
You are also invited to disclose any dispensation in relation to any registerable and/or non-registerable interests that have been granted to you in respect of any matters appearing on the agenda.	
Please complete the Declarations of Interests card available at the meeting and return it to the Democratic Services Officer before leaving the meeting.	
3. Minutes	
To confirm the minutes of the meeting held on 13 March 2017 (previously circulated).	

Continued overleaf

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Contact Officer(s) –
Sharon Ranadé – (0191) 643 5614
Dave Brown – (0191) 643 5358

Agenda Item	Page(s)
4. Report of the Young Mayor	
To receive a verbal report on the latest activities of the Young Mayor and Young Cabinet.	
5. Reports from Scrutiny Committees	
(a) To consider a report of the Finance Sub-committee.	4-7
(b) To consider a report of the Elective Home Education Sub-group.	To follow
(c) To consider a report of the Business Support Sub-group.	To follow
(d) To consider any other reports submitted by the Overview, Scrutiny and Policy Development Committee or any of its Sub-Committees.	
6. Key (and non-key) Decisions	
(a) Equality and Diversity Policy (All Wards)	8-18
To seek approval of the Equality and Diversity Policy.	
(b) Report of the Local Government Ombudsman – Adult Social Care Matter (All Wards)	19-31
To consider a report of the Local Government Ombudsman finding maladministration causing injustice in relation to an Adult Social Care matter.	

Circulated to Members of the Cabinet:

N Redfearn (Elected Mayor)
Councillor C Burdis
Councillor E Darke
Councillor R Glendon
Councillor I Grayson
Councillor M Hall
Councillor J Harrison
Councillor B Pickard (Deputy Mayor)
Councillor J Stirling
Councillor A Waggott-Fairley

**Young and Older People's Representatives and Partners of
North Tyneside Council:**

Oscar Daniel, Young Mayor
Alma Caldwell, Age UK
Janet Soo-Chung, North Tyneside Clinical Commissioning Group
Roger Layton, North Tyneside Joint Trade Union Committee
Sharon Scott, Northern Area Commander, Northumbria Police
Pauline Wonders, Voluntary and Community Sector
David Hodgson, Business Representative

North Tyneside Council Report to Cabinet

10 April 2017

ITEM 5(a)

Report from Finance Sub-
committee – Collection
Fund Reporting

Portfolio: Finance

Cabinet Member: Councillor R Glendon

Report from: Finance Sub-committee

Wards affected: All

PART 1

1.1 Executive Summary:

This report presents a recommendation from the Finance Sub-committee in relation to future reporting of the Collection Fund as part of Financial Monitoring to Cabinet.

In accordance with Section 122 of the Local Government and Public Involvement in Health Act 2007, Cabinet is required to provide a response to the recommendations of the Overview, Scrutiny and Policy Development Committee within two months. In providing this response Cabinet is requested to state whether or not it accepts each recommendation and the reason for this decision. Cabinet must also indicate what action, if any, it proposes to take.

1.2 Recommendation:

It is recommended that Cabinet consider and formulate a response to the recommendation presented to them by the Finance Sub-committee in relation to the Reporting of the Collection Fund.

1.3 Forward Plan:

Twenty eight days notice of this report has been given in relation to the standard item on the Forward Plan that was published on 6 February 2017 under the heading 'matters arising from Overview, Scrutiny and Policy Development Committee and its sub committees'.

1.4 Council Plan and Policy Framework

This report relates to the following priorities in the 2014/18 Our North Tyneside Plan:

Our economy will grow by building on our strengths, including our existing world-class companies, and small and growing businesses.

1.5 Information:

1.5.1 Background

- 1.5.2 At its meeting on 22 February 2017, the Finance Sub-committee considered a report on the current monitoring of the Collection Fund and recommendations for future reporting to Cabinet.
- 1.5.3 The Sub-committee noted that the Collection Fund is the statutory name for the ring-fenced account for Council Tax and Business Rates and forms a separate statement in the statutory accounts at the year end.
- 1.5.4 The Sub-committee was advised of the following key elements of monitoring undertaken throughout the financial year:
- Monthly Statistics completed for both Council Tax and Non-Domestic Rates (NNDR) setting out the position in terms of the debit raised and cash collected. The collection is also monitored as part of the Business Partnership KPIs and reported to the Partnership OPB and SLT Corporate Score Card.
 - Monthly Review of NNDR position against the NNDR1
 - Annual Review of the Council Tax base.
- 1.5.5 The Sub-committee was advised to consider making a recommendation to Cabinet in relation to reporting an update on the forecast outturn for Council Tax and Business Rates as part of the Financial Monitoring Report.
- 1.5.6 It was **AGREED** that the following recommendation be agreed and submitted to Cabinet:
- That as part of the Financial Monitoring report to Cabinet for the September position and the outturn position an update is given on the forecast outturn for Council Tax and Business Rates.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet accepts the recommendation set out in the paragraph 1.5.6 above.

Option 2

Cabinet does not accept the recommendation set out in paragraph 1.5.6 above and provides a response to the Finance Sub-committee.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended as it will allow Cabinet to receive updates on the forecast outturn position for Council Tax and Business Rates as part of Financial Monitoring process, in addition to the monitoring that is already in place and undertaken throughout the financial year.

1.8 Appendices:

There are no appendices.

1.9 Contact officers:

Janice Gillespie, Head of Finance (0191) 643 2430
Joanne Holmes, Democratic Services Officer (0191) 643 5316

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) [Collection Fund Reporting – Report to the Finance Sub-committee – 22 February 2017](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The recommendation will improve the monitoring by Cabinet of the Collection Fund throughout the Financial year through reporting via the Financial Monitoring process.

2.2 Legal

There are no legal implications at this stage.

2.3 Consultation/community engagement

The Sub group have made the recommendation on the basis of information from officers from Finance.

2.4 Human rights

There are no direct issues relating to human rights arising from this report.

2.5 Equalities and diversity

There are no direct issues relating to equalities and diversity arising from this report.

2.6 Risk management

There are no direct issues relating to risk arising from this report.

2.7 Crime and disorder

There are no direct issues relating to crime and disorder arising from this report.

2.8 Environment and sustainability

There are no direct issues relating to environment and sustainability arising from this report.

PART 3 - SIGN OFF

The following officers and Members have been sent a copy of the report for their information:

- Deputy Chief Executive x
- Head(s) of Service x
- Mayor/Cabinet Member(s) x
- Chief Finance Officer x
- Monitoring Officer x
- Head of Corporate Strategy x

North Tyneside Council

Report to Cabinet

Date: 10 April 2017

ITEM 6(a)

Title: Equality and
Diversity Policy

Portfolio(s): Deputy Mayor

Cabinet Member(s): Councillor Bruce
Pickard

Report from Service
Area:

Corporate Strategy

Responsible Officer:

Jacqueline Laughton
Head of Corporate Strategy

Tel: (0191) 643 5724

Wards affected:

All wards

PART 1

1.1 Executive Summary:

1.1.1 Since the existing Equality and Diversity Policy was approved the context the Authority operates within has changed: with more services commissioned via external organisations, the requirements of the Creating a Brighter Future programme and implementation of the Target Operating Model, legislative change due to The Marriage Act 2013; therefore a new policy is required.

1.1.2 The proposed new policy provides an up to date framework for work undertaken by the Authority to:

- meet its duties under 2010 Equality Act and Public Sector Equality Duty; and
- fulfil the commitment made in the current Equality and Diversity Policy that North Tyneside be a place where people feel safe and no one experiences discrimination or disadvantage because of their characteristics, background or personal circumstances.

1.1.3 The draft policy demonstrates the Authority's commitment to equality and diversity as a leading local employer, service provider and commissioner. It also makes clear the responsibility that everyone who represents North Tyneside Council or who delivers service's on the Authority's behalf, have for the implementation of the policy.

1.2 Recommendation:

It is recommended that Cabinet approve the proposed Equality and Diversity Policy in the Appendix of this report.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 20 February 2017.

1.4 Council Plan and Policy Framework

North Tyneside Council's commitment to equality and diversity, as outlined in the proposed new policy, underpins all of the priorities in the Our North Tyneside Plan 2016-19.

1.5 Information:

1.5.1 Background

1.5.2 Since North Tyneside Council's current Equality and Diversity Policy was agreed the context within which the Authority operates has changed. In particular:

- More services are commissioned via external organisations or provided through contracts with strategic partners;
- New ways of working have been introduced through the Creating a Brighter Future Programme and implementation of the Target Operating Model; and
- The Marriage (Same Sex Couples) Act 2013 has come into force – enabling same sex couples to marry and changing the definition applied to the marital status characteristic protected under the Equality Act 2010.

It is therefore timely to review and update the existing Equality and Diversity Policy to reflect these developments.

The Content of the Policy:

1.5.2 The draft policy (attached as the Appendix to this report) seeks to ensure that the Authority has clear equality aims as both an employer and a service provider, and that those who provide commissioned or contracted services are aware of their responsibilities under the Equality Act 2010 and the Public Sector Equality Duty which is provided by the 2010 Act.

1.5.3 The Public Sector Equality Duty means that when undertaking its functions the Authority must have, and be able to demonstrate, due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

1.5.4 The draft policy also highlights that its implementation will be the responsibility of all employees, elected members and everyone who represents the Authority or delivers services on its behalf.

1.5.5 The policy contains the following sections:

- Our Vision
- Our Commitments
- Equality and Diversity in Employment
- Equality and Diversity in Service Provision
- Equality and Diversity in Procurement and Commissioning
- Our Responsibilities: as individuals, elected members, managers and trades unions
- Complaints

- Monitoring

1.5.6 The Policy has been subject to an equality impact assessment. A link to the equality impact assessment is provided in the background documents section of this report.

Consultation:

1.5.7 Following initial consultation with the Deputy Mayor and Corporate Equality Group, the draft policy was circulated to the following groups for their consideration:

- The Staff Forum;
- All employees;
- Trades Unions;
- AgeUK;
- North Tyneside Women's Voices;
- Youth Council;
- North Tyneside Carers Centre;
- Representatives from the two largest faith groups in North Tyneside (Christian and Muslim);
- North Tyneside Disability Forum;
- North Tyneside Coalition of Disabled People; and
- Northern Pride.

1.5.8 The feedback received was positive and the suggestions received resulted in amendments to the draft policy.

Implementation:

1.5.9 The policy, once approved, will be published on the Authority's intranet (for its employees and elected members to access) and the main Authority website and will be promoted via internal communications. Implementation will be incorporated into the actions identified during the development of the Annual Equality and Diversity Review, which is developed and published every June in accordance with the Public Sector Equality Duty.

1.5.10 Progress will be regularly reported to the Deputy Mayor, Senior Leadership Team and the Corporate Equality Group.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

To approve the proposed Equality and Diversity Policy.

Option 2

Not to approve the proposed Equality and Diversity Policy.

Option 3

To request changes to the Equality and Diversity Policy, prior to further consideration by Cabinet.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

The Authority's approach to equality and diversity underpins all of its key plans and policies. Approval of the recommended option will ensure the Authority has a current equality and diversity policy that reflects both current legislation and the context within in which the Authority is operating.

1.8 Appendices:

Appendix: Equality and Diversity Policy

1.9 Contact officer:

Anne Foreman, Senior Policy, Intelligence and Research Officer, tel. (0191) 643 2225

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) [Annual Equality and Diversity Review](#), North Tyneside Council, June 2016.
- (2) [Equality and Diversity Policy Equality Impact Assessment](#), North Tyneside Council, November 2016.

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The costs of delivery are included in existing service budgets and no additional costs are anticipated.

2.2 Legal

The draft policy states the Authority's commitment to equality and diversity and to compliance with the requirements of the Equality Act 2010 and Public Sector Equality Duty provided by that Act.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The draft policy was considered by the Deputy Mayor, Senior Leadership Team and Corporate Equality Group (at which service areas and business partners – Kier, Engie and Capita- are represented) prior to wider internal and external consultation.

Wider internal consultation included circulation of the draft policy to trades union representatives and members of the Staff Panel, publication of the draft policy on the North Tyneside Council

Intranet alongside internal communications to ensure all staff were aware of the opportunity to comment on the draft policy.

2.3.2 External Consultation/Engagement

The following organisations representing residents with protected characteristics were invited to comment on the draft policy: AgeUK, North Tyneside Youth Council, faith representatives (from local Muslim, Catholic and Church of England communities), North Tyneside Women's Voices, The Percy Hedley Foundation, North Tyneside Disability Forum, North Tyneside Coalition of Disabled People and North Tyneside Carers Centre and Northern Pride.

2.4 Human rights

The 2010 Equality Act created a legal framework to protect the rights of individuals and advance equality of opportunity for all. The human characteristics protected by the Act are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. The Act is therefore of particular pertinence to the Human Rights of freedom of thought, belief and religion; freedom of expression; the right to marry; and protection from discrimination.

2.5 Equalities and diversity

As shown in section 1.1 of this report the proposed policy provides framework for work undertaken by the Authority to meet its duties under the Equality Act 2010 and Public Sector Equality Duty and fulfil its commitment that North Tyneside be a place where people feel safe and no one experiences discrimination or disadvantage because of their characteristics, background or personal circumstances.

The draft policy demonstrates the Authority's commitment to equality and diversity as a leading local employer, service provider and commissioner. It also makes clear the responsibility that everyone who represents North Tyneside Council or who delivers services on the Authority's behalf have for its implementation.

The draft policy was developed following the completion of the equality impact assessment contained in the background papers listed in section 1.10 of this report.

2.6 Risk management

The effectiveness of the Authority's equality and diversity processes are monitored every quarter as part of North Tyneside Council's risk management processes and are reported via the Corporate Strategic Risk Register.

2.7 Crime and disorder

There are no crime and disorder implications arising directly from this report. However the draft policy does affirm the Authority's commitment to equality and diversity and highlights that the Authority will not tolerate discrimination, harassment or victimisation on any grounds.

2.8 Environment and sustainability

There are no environment and sustainability implications arising directly from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive x
- Head(s) of Service x
- Mayor/Cabinet Member(s) x
- Chief Finance Officer x
- Monitoring Officer x
- Head of Corporate Strategy x

Appendix 1

Equality and Diversity Policy

1. Our Commitment to Equality

We want North Tyneside to be a place where people feel safe and no one experiences discrimination or disadvantage because of their [characteristics](#), background or personal circumstances.

As one of the borough's leading service providers and employers, we are committed to developing North Tyneside to be an inclusive place in which to live, work, visit and invest.

Our commitments

To achieve this North Tyneside Council will:

- Proactively embed equality and diversity considerations in everything we do and challenge others to do the same.
- Meet all our legal equality duties under the [Equality Act 2010](#), the [Public Sector Equality Duty](#) and follow codes of practice published by the [Equality and Human Rights Commission](#).
- Not tolerate discrimination, harassment and victimisation on any grounds.
- Publish our equality objectives, equality data and report progress in [our Annual Equality and Diversity Review](#).
- Undertake and implement the actions from [Equality Impact Assessments](#) on significant decisions, policies, plans, practices and procedures
- Ensure people with protected characteristics feel listened to and have the opportunity to be involved in making decisions about our services.
- Work to build understanding amongst residents, employees, partners and elected members of the needs of different protected groups across North Tyneside.
- Take account of, and respond to, the needs of residents and customers with protected characteristics when delivering our services.
- Work to create an environment where employees, elected members, residents and visitors are confident to be themselves.
- Strive to make our workforce more representative of the borough's population and the residents it serves, by ensuring equal access to jobs, training and career progression.
- Ensure that others providing services on our behalf follow our approach to equality.

2. Equality and Diversity in Employment

This section applies to all employees and people seeking work with us. As a local employer we have a key role to play in tackling inequality and discrimination. We aim to positively promote equality of opportunity through all of our employment policies and practices: including recruitment, terms and conditions, learning and development, promotion and when ending employment.

We will:

- Provide equality of opportunity to all applicants and prospective applicants through fair recruitment and selection procedures.
- Recognise that people with particular protected characteristics, including people with disabilities or from BME communities, may experience discrimination in employment, and therefore seek to take positive and proportionate action to recruit and retain employees from such groups, while taking into consideration the duty to appoint on merit.
- Make reasonable adjustments to enable the employment and redeployment of employees with disabilities.
- Use the information and feedback we collect to understand more about, and respond to, employee's experience of working for North Tyneside Council.
- Ensure that all employees are considered for promotion on the basis of their merits, abilities and skill, and are given equal opportunities to progress within the Authority.
- Create an appropriate balance between work and home commitments to maximise equal opportunities for all.
- Wherever possible, give employees the training and development opportunities needed to attain their full potential to the benefit of North Tyneside Council and themselves.
- Ensure that all employees undertake equality training so that they understand its importance in the work place and in service delivery and know how to challenge any inappropriate behaviour.
- Develop an anti-discriminatory and supportive culture where employees are aware of their rights and enjoy working for North Tyneside Council.
- Respond to any allegations of discrimination, victimisation or harassment through appropriate internal processes, including our [resolution](#) and [discipline](#) procedures.

3. Equality and Diversity in Service Provision

We will seek to provide appropriate, accessible and effective services and facilities to all current and potential service users.

We will:

- Use our equality impact assessment process to help us challenge, review, monitor and improve our services, working practices and resource allocation.
- Use a range of channels to enable service users to access our services independently and appropriately.

- Ensure that the information we provide can be read or received and understood by the people for whom it is intended.
- Ensure that all buildings, facilities and services used by our customers are welcoming and accessible.
- Work with our partners to tackle any discrimination affecting groups within our communities.
- Use the equality data we collect to identify and take action to address the needs of under represented groups, those who are disadvantaged or have particular needs due to their characteristics.
- Involve residents in shaping our services through inclusive engagement and consultation.

4. Equality and Diversity in Procurement and Commissioning

We will ensure that our procurement and commissioning practices fulfil our equality duties by ensuring that:

- Contractors, suppliers, volunteers and partners:
 - are aware of the authority's position on equality, we will include a commitment to equality in tender specifications
 - have an equality policy that is compliant with national and European public procurement legislation and understand their obligation to provide services that are free from discrimination, harassment or victimisation.
- Our selection and tendering processes address and include equality considerations.
- Our contract monitoring processes are inclusive of equalities considerations.
- Relevant employees receive guidance on equality issues for procurement.

5. Our responsibilities

Equality, and the implementation of this policy, is the responsibility of all employees, elected members and everyone who represents North Tyneside Council or delivers services on its behalf. More specifically:

5.1 As Individuals

All employees and elected members have an individual responsibility to:

- ensure their equality training and awareness is up to date
- promote and deliver equality in the workplace and in serving local communities
- behave in a way that supports this policy and is compliant with relevant legislation and codes of practice
- report, and if they consider it safe to do so, challenge any discriminatory behaviour or practices they encounter in the course of their work.

5.2 As Elected Members

Elected members also have a responsibility to:

- lead the equality and diversity agenda of North Tyneside Council
- represent and provide leadership for all groups and communities across North Tyneside
- provide a scrutiny role
- demonstrate '[due regard](#)' to the equality implications of the decisions they make.

5.3 As Managers

Managers are responsible for ensuring the implementation of this policy in their service areas via their service planning process, this includes ensuring:

- the identification and elimination of discriminatory practices
- equality objectives and improvement actions identified in the Annual Equality and Diversity Review are included in service plans
- processes are in place to systematically collect and report equality performance management data
- effective equality impact assessment of significant decisions, policies, plans, practices and procedures is undertaken
- service delivery demonstrates due regard to the needs of people with protected characteristics
- employees are fully aware of their individual equality responsibilities, and those of the organisation, under the Equality Act 2010.

5.4 Trades Unions

Unions have a responsibility to:

- represent the views and concerns of their members on equality and diversity issues
- support the continuous improvement of equality policy and practice.

6. Complaints

We regard any comments and complaints as an opportunity to examine the quality of our services, and to proactively address the issues that have been raised. We are therefore committed to:

- dealing with all complaints of discrimination, harassment and victimisation, seriously, promptly and confidentially
- ensuring that any person who feels they have suffered any form of discrimination by North Tyneside Council is given guidance in making a [complaint](#).

In relation to specific types of complaints:

- Employee complaints - should an employee have any complaint in respect of their treatment in relation to this policy, this should be taken up through internal processes, such as our resolution or discipline processes.
- Public complaints - information on how to make a complaint can be found in our libraries, leisure centres, customer first buildings and Quadrant headquarters or at www.northtyneside.gov.uk.

7. Monitoring

We assess and monitor our progress through:

- Regular performance and progress reports to the Cabinet Champion for Equality and Diversity, the Senior Leadership Team and Service Management Teams.
- [Corporate Equality Group](#), which has representatives from each of our services and our strategic partners. It meets to co-ordinate, identify and support the successful implementation of practical solutions to help the Authority fulfil its equality duties in accordance with the requirements of the Equality Act 2010 and Public Sector Equality Duty.
- Our equality impact assessment process to ensure we properly consider the potential impact of Cabinet and Full Council decisions on protected groups
- The identification of the equality and engagement implications of the decisions recommended in our Cabinet and Full Council reports.
- Publication on our website of our Annual Equality and Diversity Review, which includes
 - profiles of our service users and workforce (see note on equality information below) compared to the borough population
 - progress reports against our Corporate Equality Objectives and service equality actions and is evaluated by the Equality and Human Rights Commission to check accessibility and compliance with the Equality Act 2010 and Public Sector Equality Duty.

Note: Equality information

Where we ask employees and service users to provide us with personal information, this will only be used to improve access to and the quality of the services we provide.

Collecting equality information helps us to:

- understand the needs of our residents
- design policies and services which are effective and meet those needs
- demonstrate compliance with the Equality Act 2010, the Public Sector Equality Duty and other statutory duties
- measure more effectively how we are improving as an employer and a service provider.

We will only collect information when it is relevant and will be used by managers to develop an understanding of take up and need. While employees and service users are encouraged to provide equality information, it is their choice whether or not to answer all the questions. Confidential information will be handled in accordance with the strict controls of the Data Protection Act 1998 and the information gathered will be used to inform North Tyneside Council policy and planning, and to report on performance.

North Tyneside Council

Report to Cabinet

Date: 10 April 2017

ITEM 6(b)

Title: Report of the Local Government Ombudsman

Portfolio(s): Adult Social Care

Cabinet Member(s): Councillor Allison Waggott-Fairley

Report from Service

Area: Law and Governance

Responsible Officer: Vivienne Geary, Head of Law and Governance

Tel: 0191 643 5339

Wards affected: All

PART 1

1.1 Executive Summary:

The Local Government Ombudsman (LGO) has issued a report dated 10 February 2017 finding maladministration causing injustice as a result of the failure of the Authority to keep the complainant, Mrs X, sufficiently informed about what action it was taking in response to her concerns about her mother's care in a care home (CH). The LGO did find that there was no fault by the Authority in its response to Mrs X's complaint about the quality of care provided to her late mother in the care home and that the Authority's safeguarding investigations were found to be sufficiently comprehensive and robust and were conducted in line with the Care Act 2014. However, the Authority has accepted that it should have communicated better about its work with Mrs X.

The Authority have acknowledged this injustice and written to Mrs X to apologise for its poor communication about its safeguarding investigations and ongoing monitoring of the care home, as recommended by the LGO.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (1) note the findings and recommendation of the LGO as described in this report and set out in the LGO's report at Appendix 1; and
- (2) note the actions taken by the Authority to comply with the recommendations of the LGO's report, as set out in 1.5.3 and 1.5.4 of this report.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 20 February 2017.

1.4 Council Plan and Policy Framework

This report relates to the following priority in the 2016-19 Our North Tyneside Plan:

(1) Our People will be cared for and kept safe if they become vulnerable.

1.5 Information:

1.5.1 Background

The details of this complaint and the findings of the LGO investigator are set out in full in Appendix 1.

The LGO investigator has looked into 2 separate safeguarding referrals made by Mrs X to the Authority..

1st safeguarding referral 7th January 2015

Mrs X's late mother, Mrs Y lived at the CH from April 2012. There appears to have been no significant concerns about the care provided until Mrs Y was admitted to hospital on 5 January 2015. Following this, a safeguarding alert was made to the Authority on 7 January 2015. Mrs X raised a number of concerns about:

- Staffing levels in the care home;
- Administration of medication including staff forcing Mrs Y to swallow tablets;
- The care home's failure to contact a GP promptly when Mrs Y was ill; and
- Mrs Y being taken to the communal lounge when she was ill instead of staying in her room as Mrs X had asked.

2nd safeguarding referral 13 November 2015

Mrs X complained about:

- Poor fluid intake;
- Inaccurate recording of fluid balance charts;
- Bruising to Mrs Y;
- Administration of medication;
- Carers allowing Mrs Y to urinate in a waste paper basket, which was then left in her room; and
- Increasing use of agency staff.

Both cases were managed under the Authority's Safeguarding processes and due process was followed. Mrs X was involved in all of the meetings which took place as part of the Safeguarding process and was satisfied with the outcome each time.

1.5.2 Findings

The findings of the LGO are detailed between paragraphs 9 and 57 in Appendix 1. The conclusions of the LGO investigator are as follows:

"There is no fault by the Council in the way it responded to Mrs X's concerns. It responded robustly and thoroughly. The depth and quality of its safeguarding investigations is commendable. All the records are detailed and of a high standard. The

Council's effort in monitoring the care home's actions is also commendable. It undertook unannounced visits on numerous occasions and where it found evidence of poor care or recording, gave clear instructions to the care home about the action it needed to take to improve. The Council kept the home within a safeguarding investigation to ensure it was following its instructions.

The Council made every effort to achieve improved practice at the care home. Unfortunately, despite its best efforts, the care home continued with poor practice in some areas. This was despite continued involvement, advice and training from the Council and third party professionals.

The Council accepts it should have communicated better with Mrs X about the safeguarding investigations it undertook. It is unfortunate the Council did not do this. Mrs X was unaware of the robust and thorough action the Council took in monitoring the actions of the care home and that it continued to do so between the safeguarding investigations. Had Mrs X been aware of this, she may have been reassured it was taking her concerns seriously and that it had not taken the side of the care home, or 'swept matters under the carpet'. The Council says in hindsight it could have dealt with this better. It also says it may have been beneficial to have met Mrs X and her sister after Mrs Y's death to support them."

1.5.3 Recommendations

The LGO investigator has found maladministration and injustice against the Authority for not keeping Mrs X sufficiently informed about what action it was taking in response to her concerns about her mother's care in the care home and has made the following recommendation, as set out under paragraph 61 of Appendix 1:

- Apologise to Mrs X for its failure to keep her sufficiently informed about what action it took in response to her complaint.

1.5.4 Actions taken

- An apology has been sent out to Mrs X as recommended by the LGO, this apology includes a detailed account of all actions carried out by the Authority's staff.
- The Authority has explained to the Ombudsman what action it has taken to continue to monitor the quality of care the care home provides to all residents.
- The Authority has provided evidence to the Ombudsman of its communication with the Care Quality Commission about the care home, and of the safeguarding investigations it has undertaken.

1.5.5 Officer Comments

Whilst this case has highlighted a fault with the Authority, in relation to the level of communication provided to the family, in particular, during the period between the two safeguarding issues, it is reassuring that the Ombudsman has considered the Safeguarding process which was carried out to be robust and of a high standard.

As a Local Authority, North Tyneside Council has long considered the issue of Safeguarding Adults to be a priority; with clear policies and procedures to follow. It has invested in training for staff and partner agencies and spent time and resources in raising awareness across the wider workforce and amongst the general public.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet is requested to note the findings of the report (Appendix 1), its recommendation and actions taken to address the LGO's recommendation.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

To comply with the recommendations of the LGO.

1.8 Appendices:

Appendix 1: The Ombudsman's final decision report,

1.9 Contact officers:

Jacqui Old, Head of Health, Education, Care and Safeguarding Management, tel. (0191) 643 7317

Yvette Monaghan, Customer, Member and Governor Services Manager, tel. (0191) 643 5361

Alison Campbell, Senior Business Partner, tel. (0191) 643 7038

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

LGO's final decision report (attached at Appendix 1).

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no financial implications arising as a result of this report.

2.2 Legal

Where the LGO reports that injustice has been caused to a person aggrieved in consequence of maladministration, the report must be laid before the Authority who has a duty to consider the report and, within the period of three months beginning with the date on which the report was received, or such longer period as the LGO may agree in writing, to notify the LGO of the action which the Authority has taken or proposes to take.

In accordance with the Local Government Act 2000 and the Regulations made under that Act, Cabinet is responsible for considering this report.

2.3 Consultation/community engagement

Officers in Adult Social Care have been consulted about the actions identified to address the LGO's recommendation.

2.4 Human rights

There are no Human Rights implications arising as a result of this report.

2.5 Equalities and diversity

There are no equality and diversity implications arising as a result of this report.

2.6 Risk management

There are no risk management implications arising as a result of this report.

2.7 Crime and disorder

There are no crime and disorder implications arising as a result of this report.

2.8 Environment and sustainability

There are no environment and sustainability implications arising as a result of this report.

PART 3 - SIGN OFF

- Deputy Chief Executive
- Head of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy

Complaint reference:
15 014 776

Complaint against:
North Tyneside Metropolitan Borough Council

The Ombudsman's final decision

Summary: There is no fault by the Council in its response to Mrs X's complaint about the quality of care provided to her late mother in a care home. The Council's safeguarding investigations were sufficiently comprehensive and robust and were conducted in line with the Care Act 2014. The Council did not, however keep Mrs X sufficiently informed about what action it was taking in response to her concerns.

The complaint

1. Mrs X complains about the quality of care provided to her late mother between January 2015 and March 2016 at Stephenson Court Care Home. Mrs X believes this contributed to her mother's death.
2. Mrs X is unhappy with the way the Council conducted two safeguarding investigations into her concerns. She believes the Council took the side of the care home. She says her concerns have *"been swept under the carpet"*.

The Ombudsman's role and powers

3. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
4. If we are satisfied with a council's actions or proposed actions, we can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i)*)

How I considered this complaint

5. I have:
 - considered the complaint and discussed it with Mrs X;
 - considered the correspondence between Mrs X and the Council, including the Council's response to the complaint;
 - made enquiries of the Council and considered the responses. This included care records from the care home, and documents relating to the Council's safeguarding investigation;
 - taken account of relevant legislation;

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- offered Mrs X and the Council the opportunity to comment on a draft of this statement.

What I found

The law relevant to this complaint

6. The Care Act 2014 sets out a clear legal framework for how local authorities and other parts of the system should protect adults at risk of abuse or neglect.
7. Councils have a duty to investigate any safeguarding concerns about possible abuse of vulnerable citizens.
8. In conducting a safeguarding investigation the Council should:
 - record the concerns;
 - put those concerns to the care provider (where suitable);
 - consider visiting and inspecting the care provider;
 - check what other concerns or complaints about that provider have been recorded;
 - check the Care Quality Commission's (CQC) records to see when it last inspected the care provider or home and note any concerns it lists;
 - consider the responses from the care home;
 - share the information with the complainant;
 - meet the complainant to discuss the information and any continuing concerns;
 - decide if the concerns mean it needs to take formal action;
 - Inform the complainant of its decision.

Background

1st safeguarding investigation

9. Mrs X's late mother, Mrs Y lived at Stephenson Court from April 2012. There appears to have been no significant concerns about the care provided until Mrs Y was admitted to hospital on 5 January 2015. Following this, a safeguarding alert was made to the Council on 7 January 2015. Mrs X raised a number of concerns about:
 - staffing levels in the care home;
 - administration of medication including staff forcing Mrs Y to swallow tablets;
 - the care home's failure to contact a GP promptly when Mrs Y was ill;
 - Mrs Y being taken to the communal lounge when she was ill instead of staying in her room as Mrs X had asked.
10. When the Council received the safeguarding alert, it contacted the care home to inform it about the alert and to discuss the concerns with the manager. The Council's contracts and compliance team were also informed. The Council also contacted Mrs Y's GP.
11. The Council arranged a strategy meeting for 15 January 2015. Mrs X was present at the meeting along with the deputy manager of the care home, a senior social worker, an officer from the Council's contracts department and a reablement social worker from the hospital.

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12. I have seen a copy of the strategy meeting report. The report is detailed and completed to a high standard. It gives more detail of Mrs X's concerns. Mrs X says that staffing at the care home was frequently low and on one occasion there was only one carer on duty. Consequently, Mrs Y's calls for assistance were sometimes not answered promptly. Mrs X also witnessed a carer trying to force Mrs Y to swallow tablets which caused Mrs Y distress.
 13. During a period when Mrs Y was unwell, Mrs X had asked that Mrs Y remain in her bedroom but care staff continued to take her to the communal lounge.
 14. Mrs Y asked care staff to call a GP when Mrs Y was unwell. This was not done and Mrs X believed this resulted in Mrs Y's admission to hospital as an emergency.
 15. The records show Mrs X was happy for Mrs Y to return to the care home on discharge from hospital, but she wanted her concerns addressed. The Council decided further investigation was required by both the care home and the Council's contracts monitoring team. A social worker visited Mrs Y to complete an assessment of her capacity to decide where she wanted to live. The Council asked the care home to conduct its own investigation into the incident where a carer allegedly 'forced' Mrs Y to take medication.
 16. The Council's commissioning teams visited the care home on 23 January 2015 to inspect the daily care records for Mrs Y and to check what complaints had been logged by care staff. It also inspected staff rotas to check staffing levels for the previous three weeks. The Council found the daily records to be "*quite good*". It found that at times the home had been short-staffed. The care home manager acknowledged this.
 17. The Council told the care home manager that all complaints made directly to care staff should be appropriately recorded. It believed the care home may have been doing so. The Council intended monitoring the complaints made.
 18. The Council told the care home manager to alert the provider's head office about the incident involving a carer allegedly 'forcing' Mrs Y to take medication and to inform the Disclosure and Barring Service (DBS). The Disclosure and Barring Service (DBS) prevents unsuitable people from working with vulnerable groups including vulnerable adults. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).
 19. The Council completed a capacity assessment of Mrs Y on 6 February 2015 to establish if she was able to make a decision about where she lived. The outcome showed she had the capacity to make such a decision. Mrs Y chose to stay at the care home. Mrs X supported this decision.
 20. The Council held a safeguarding case conference on 9 February 2015. Mrs X was present, along with a social worker, an officer from the Council's contracts monitoring team and the manager of the care home. The records show the outcome of the meeting.
 21. The care home acknowledged there had been staffing issues and it had used agency staff, but said they were mostly individuals who were familiar with the residents. It also apologised to Mrs X for the incident when a carer had 'forced' Mrs Y to swallow medication and water. It explained the carer had left the company and the country. The Council said because the carer was no longer in the UK it had not been able to come to a finding on the allegation. It decided to remove this aspect of the complaint from the safeguarding investigation.

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22. The records show the care home had discussed Mrs Y being taken to the communal lounge when she was unwell with Mrs X. It explained Mrs Y had been distressed when left alone in her room during the day. It also discussed her concerns about care staff not calling a GP promptly.
 23. The records show the Council and Mrs X were satisfied with the outcome of the safeguarding investigation. Mrs X accepted the care home's apology. The safeguarding investigation ended.

What happened next

24. Mrs X says that for a period of time following the safeguarding investigation the care provided to Mrs Y improved. The home had a new manager with whom Mrs X had developed a good relationship. She says the manager secured the support of outside professionals when Mrs Y began displaying challenging behaviour. Mrs X says the manager left the home after a couple of months and the day to day running of the home deteriorated.
25. In April 2015 the Council completed a review of Mrs Y's care needs. It considered the care provided was satisfactory at this point.
26. Mrs X says she began to have increasing concerns about -Mrs Y's food and fluid intake, pain management, and bruising to her arms and legs. She also had concerns again about staffing levels. This led to a second safeguarding referral on 13 November 2015.

2nd safeguarding referral

27. Mrs X complained about:
 - poor fluid intake;
 - inaccurate recording of fluid balance charts;
 - bruising to Mrs Y;
 - administration of medication;
 - carers allowing Mrs Y to urinate in a waste paper basket, which was then left in her room;
 - increasing use of agency staff.
28. The Council carried out an unannounced visit to the care home on 16 November 2015 to assess the care records and gather information for the safeguarding investigation. On 20 November 2015 the Council's records show an officer spoke to a temporary manager at the care home. At that time no permanent manager was in post. The manager explained she was conducting an investigation into the complaints Mrs X raised.
29. A social worker visited the care home on the morning of 9 December 2015 to examine Mrs Y's care records. The Council held a safeguarding strategy meeting on the afternoon of the same day. Mrs X was present, along with two senior managers of the care home and officers of the Council, one of whom was the social worker who had had ongoing involvement in the case since the previous investigation.
30. The records show the social worker reported the care home's recording of Mrs Y's fluid intake was unacceptable. Other areas of care were also a cause for concern and required improvement. The manager of the care home acknowledged this and explained the action it was taking to improve.

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31. The manager of the care home said the two carers had admitted they had allowed Mrs Y to urinate in a waste paper bin. This had been addressed through formal supervision. Mrs X was dissatisfied and wanted the carers to be subject to formal disciplinary proceedings. The manager of the care home said the action taken was proportionate and further action was not necessary.
 32. The Council agreed a seven point action plan with the care home. The Council would:
 - continue monitoring the care home through its contracts department;
 - contact Mrs Y's GP and pharmacy to clarify how medication should be administered to her;
 - reassess Mrs Y's care needs.
 33. The care home was required to:
 - undertake formal supervision of all care staff;
 - hold regular staff meetings which should include good practice, health and safety, company policies and procedures and reminders of the consequences of non-compliance;
 - discuss how 'body mapping' could be improved at its managers' meeting;
 - review care records for the previous six months to ascertain any patterns of bad practice by care staff.
 34. The Council carried out a further unannounced monitoring visit to the care home on 11 December 2015 A safeguarding case conference was arranged for 6 January 2016.
 35. An officer from the Council's contracts team visited the care home again on 5 January 2016 to examine the previous five weeks' care records. They focused primarily on the areas of concern identified at the previous safeguarding meeting. They found the recording of food intake charts had been implemented, but the recording was not consistent; there will still gaps in the records. The fluid charts were also not completed properly and there was no overall monitoring of fluid intake. The officer found bowel movement charts, body map charts and pain management charts were completed properly.
 36. The social worker identified areas of care practice that continued to need improvement. The NHS behavioural nurses explained the training they had given to the care staff in communicating with Mrs Y and dealing with behaviour related to dementia. The nurses reported a need for a consistent approach in implementing the recommendations and recording the outcome. The nurses offered to undertake further training on caring for service users with dementia.
 37. By this point there was a new manager in post. She said carers were confused by the variety of charts implemented by the professionals and needed to focus on just one chart. She said 'improved paperwork' was being introduced, which would be simpler and easier for carers to use.
 38. The social worker noted there had been some improvements in the care home's management of medication administration and of Mrs Y's pain management. The care home still needed to improve its practice in some areas including its recording of food/fluid charts and particularly in communicating with Mrs Y's GP.
 39. Mrs X reported recent bruising on Mrs Y which she believed was caused during moving and handling by carers. The social worker recommended an OT

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- assessment. Mrs Y expressed concerns again about staffing levels at the home. The care home manager reported an increase in residents and because of this; it was recruiting more care staff. She said consideration would be given to resident's dependency levels and staff ratios.
40. The Council concluded the care home had not satisfactorily resolved all the identified concerns. In particular, the Council continued to have concerns about the recording practices of the care home. Because of this, it decided to keep the case under safeguarding investigation.
 41. A follow-up meeting took place on 25 February 2016. It was concluded that the care home had addressed all the matters of concern. New recording procedures had been implemented. The Council ended the safeguarding investigation.
 42. The Council's OT visited the care home on 2 March 2016. Unfortunately Mrs Y was unwell and the assessment could not go ahead. The records show Mrs Y was waiting for a visit from a GP.
 43. Within three weeks, Mrs X again expressed concern about Mrs Y's wellbeing. She says both she and her sister asked the care home to call a GP on numerous occasions because they believed Mrs Y was unwell. Mrs X says Mrs Y was not offered regular fluids. She also appeared to be 'chesty'. A GP visited Mrs Y on 2 March 2016 and concluded Mrs Y did not have a chest infection and required no medication.
 44. On 3 March 2016, Mrs X was concerned about Mrs Y's condition and asked for a GP to be called. The GP who attended was a different GP from the day before. Mrs Y was admitted to hospital and was diagnosed with a chest infection. Mrs X cannot understand why Mrs Y was not admitted the day before. She has complained about this directly to the GP practice.
 45. Mrs X contacted the Council to inform it Mrs Y was in hospital with a suspected chest infection. Mrs X said Mrs Y had been unwell for a number of days before her hospital admission. Mrs X said Mrs Y would not have developed such symptoms overnight. The officer and Mrs X discussed the possibility of moving Mrs Y to a different care home when she was discharged from hospital.
 46. The Council received a further safeguarding referral on 8 March 2016. Its initial enquiries showed that since February 2016, the care home had recorded Mrs Y's condition as fluctuating, with a slight deterioration.
 47. The care home also contacted the Council. The social worker decided to hold a further safeguarding meeting. He contacted Mrs Y's GP and the hospital where Mrs Y was an inpatient. The hospital confirmed Mrs Y had a chest infection and dehydration on admission that was believed to have happened in the week running up to her admission. The hospital had not recorded concerns about Mrs Y that would trigger a safeguarding referral.
 48. The social worker visited the care home to gather information from Mrs Y's care files. As a result he referred the matter to the Council's contracts team to consider a wider organisational safeguarding investigation. He recorded "*Advised to keep sharing of information to the minimum at this point and inform daughter that safeguarding procedures will be started (either as individual or organisation by contracts).*"
 49. The social worker visited the care home again on 10 March 2016 to inspect Mrs Y's care records. He found Mrs Y had refused drinks regularly and had consumed less fluid than the recommended 1500mls a day. On some days Mrs Y had

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- consumed less than 600 mls. The records also show Mrs Y food intake was poor, that she had only accepted one meal a day, and had not eaten all the meal.
50. Body maps showed new bruising. Mrs Y was also reported to have been quite sleepy. The social worker saw the GP to the care home had instructed the care home to contact them if Mrs Y's fluid intake dropped. The care home did not alert the GP when Mrs Y's fluid intake dropped below the minimum recommended amount.
 51. The social worker had a telephone discussion with the care home manager on 17 March 2016. The social worker expressed concern that although Mrs Y's fluid levels had been low for a few days, it appeared care staff had not reacted until Mrs X insisted on calling a GP. The records show the manager was defensive. The manager said she had received an email from Mrs X accusing the care home of neglect and saying she intended taking the matter further and that she wanted justice for her mother.
 52. The Council completed a needs assessment and risk assessment of Mrs Y on 18 March 2016.
 53. On 18 March 2016, the social worker spoke with the care home manager again to say Mrs Y was ready for discharge from hospital and that Mrs X wanted her mother to return for an interim period. The manager said she had informed senior managers of the emails she had received from Mrs X and it was considered there had been an irretrievable breakdown between the care home and the family. Consequently, the care home was not prepared to accept Mrs Y back from hospital. Mrs Y remained in hospital until an alternative placement could be found.
 54. Mrs X was unhappy with this decision. She sent an email to the care home to express her dissatisfaction, saying she believed the care home had made her mother homeless. She said she had only wanted her mother to return to the care home until an alternative could be found. Mrs X did not receive a reply.
 55. Sadly Mrs X passed away in hospital on 22 March 2016.
 56. Following Mrs Y's death, the social worker continued his investigation into the general care provided at the care home. The Council has not confirmed to the Ombudsman what action it took, or how it satisfied itself the care provided was of an acceptable standard.
 57. Mrs X made a formal complaint to the Council. The Council officer dealing with the complaint offered to meet Mrs X, but she refused. Mrs X believed the Council had taken the side of the care home.

Consideration

58. There is no fault by the Council in the way it responded to Mrs X's concerns. It responded robustly and thoroughly. The depth and quality of its safeguarding investigations is commendable. All the records are detailed and of a high standard. The Council's effort in monitoring the care home's actions is also commendable. It undertook unannounced visits on numerous occasions and where it found evidence of poor care or recording, gave clear instructions to the care home about the action it needed to take to improve. The Council kept the home within a safeguarding investigation to ensure it was following its instructions.
59. The Council made every effort to achieve improved practice at the care home. Unfortunately, despite its best efforts, the care home continued with poor practice

in some areas. This was despite continued involvement, advice and training from the Council and third party professionals.

60. The Council accepts it should have communicated better with Mrs X about the safeguarding investigations it undertook. It is unfortunate the Council did not do this. Mrs X was unaware of the robust and thorough action the Council took in monitoring the actions of the care home and that it continued to do so between the safeguarding investigations. Had Mrs X been aware of this, she may have been reassured it was taking her concerns seriously and that it had not taken the side of the care home, or 'swept matters under the carpet'. The Council says in hindsight it could have dealt with this better. It also says it may have been beneficial to have met Mrs X and her sister after Mrs Y's death to support them.
61. It is not clear what the Council has done to continue to monitor the care home and address the issues this complaint raises. The Council needs to ensure acceptable standards of care are provided to all residents. Some of the issues raised in this complaint relate to compliance with the CQC's Fundamental Standards. As such I will send the CQC a copy of this decision statement.

Agreed action

Within one month of the date of my final decision the Council should:

- write to Mrs X to apologise for its poor communication about its safeguarding investigations and ongoing monitoring of the care home.

Actions completed

- the Council has explained to the Ombudsman what action it has taken to continue to monitor the quality of care the care home provides to all residents. It has provided evidence of the action it has taken;
- the Council has provided satisfactory evidence to the Ombudsman of its communication with the Care Quality Commission about the care home, and of the safeguarding investigations it has undertaken;

Final decision

62. I am satisfied the Council's safeguarding investigations were sufficiently comprehensive and proportionate and conducted in line with the Care Act 2014 and accompanying guidance.
63. The Council has agreed to apologise to Mrs X for its failure to keep her sufficiently informed about what action it took in response to her complaint. It has agreed to the Ombudsman's recommendations. It is on this basis the complaint will be closed.

Investigator's decision on behalf of the Ombudsman