

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into complaints against
Trafford Council**

**(reference numbers: 19 008 799, 19 008 221,
19 003 291, 19 014 639, 19 008 633, 19 007 781)**

12 March 2020

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mrs B	The complainant
Mrs C	The complainant
Mr & Mrs D	The complainant
Mr F	The complainant
Mrs G	The complainant
Mr H	The complainant

Report summary

Refuse and recycling

All six complainants complain about the Council's waste and refuse collection service. In particular, they complain about a failure to return bins to the correct location and missed garden and food waste collections.

Finding

We have upheld the complaint and found fault. In five of the cases the fault caused injustice.

Recommendations

The Council must 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*)

We welcome the service changes the Council has already made. In addition to the requirements set out above, the Council has agreed to take the following action to remedy the injustice identified in this report.

- Apologise to each of the complainants for the frustration and inconvenience caused by the collection problems.
- Monitor their waste collections for twelve collections.
- Give Mr F's crew photographs of where the bins are to be left and ask the crew driver to sign for these instructions.
- Report the results of the monitoring to us and to the complainants within a month of the twelfth collection. If the monitoring shows a need for further action, the report will explain what action the Council will take.
- Pay Mr and Mrs D £150 to acknowledge injustice caused over a number of years.
- Pay Mrs B, Mrs C, Mr F and Mrs G £100 to acknowledge the time and trouble and difficulties they were caused.
- Review its missed collection report and complaints process with a view to introducing a step where results of supervisor monitoring can be assessed, or residents can talk to the supervisor about the problem, and the matter given a chance to be resolved before automatic escalation to us.
- Ask the Overview and Scrutiny Committee to consider whether the recent changes to the waste collection service have brought about service improvements.

The complaint

1. All six complainants complain about the Council's waste and refuse collection service.

Legal and administrative background

The Ombudsman's role

2. We investigate complaints about 'maladministration' and 'service failure'. In this report, we 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. We 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), as amended*)
3. The law says we cannot normally investigate a complaint unless we are satisfied the council knows about the complaint and has had an opportunity to investigate and reply. However, we may decide to investigate if we consider it would be unreasonable to notify the council of the complaint and give it an opportunity to investigate and reply. (*Local Government Act 1974, section 26(5)*)

Household waste and recycling collections

4. Councils have a duty to collect and dispose of household waste and they may specify when and where bins can be left for emptying. (*Environmental Protection Act 1990, sections 45, 46 and 48*).
5. The Council's contractor collects food waste weekly, and general waste and recyclables alternately every two weeks. After the crews collect the refuse, they should put the bins back, either to their original location, or to an allocated collection point.

Assisted collections

6. The Council provides an assisted collection service to residents with disabilities or mobility problems who find it hard to place their bins out for collection. The contractor collects the bins from wherever they are placed and returns them to the same location once emptied.

Reporting missed collections

7. Residents should report missed collections within two working days. The Council says a service request will be actioned by the appropriate team or supervisor and the crew will return. If a resident reports a bin has not been returned, the crew should return in 24 hours.
8. If a resident experiences repeated issues they can raise a formal complaint with the Council, which is a two-stage process.

Garden waste service

9. In 2018/19 there was an optional garden waste collection service which cost £40 a year. If a resident subscribed to this, the Council issued a permit sticker which must be placed on the green bin. Green bins placed for collection without a permit sticker would not be emptied if they contain garden waste.

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10. The terms and conditions for the garden waste subscription service state that refunds will not be given for missed collections, or if the resident decides to stop using the service during the year.

How we considered these complaints

11. We produced this report after examining relevant documents and speaking to the complainants.
12. We gave the complainants and the Council a confidential draft of this report and invited their comments. We considered the comments received before the report was finalised.

What we found

Background

13. In 2018/19 we received 16 complaints about the Council's refuse and recycling service. We found fault in seven of these cases.
14. Since April 2019 we have received 18 complaints. We could not consider six of these as the complainant had not yet completed the Council's complaint process. Of the rest, we found fault in three, no fault in two, and one complaint was withdrawn. The remaining six cases form this report.
15. The Council has been aware of problems with its refuse collection service, which are part of a larger contract. During 2018 its Overview and Scrutiny Committee conducted a review of the wider contract due to concerns about performance. The contractor started to roll out new waste collection routes in October 2019 with the aim of making the service more efficient and to improve performance.

Failure to return bins to the right location

Mrs B's complaint

16. Mrs B is elderly and complained to the Council in March 2019 that it had failed to return her food waste bins to the correct place following assisted collections. She complained again in June 2019.
17. The Council apologised. It issued a reminder to the crews in July 2019, though it has not kept the document, but the problem recurred and Mrs B escalated the complaint to Stage 2 of the complaints procedure. The Council agreed to monitor the collections, but the problem persisted. Mrs B complained to us in August 2019. She told us the crew left the bin on the main road some distance away and she had to ask relatives to bring it back.
18. In response to our enquiries, the Council said Mrs B had reported problems five times in August, September and October 2019. It sent evidence a supervisor had been monitoring the collections. On some of these occasions the supervisor had attended before the crew had emptied the bin. On one occasion in November 2019, the crew missed the collection. The Council said the usual crew had not been able to complete its round, so an assistance crew was also used. This meant there had not been a consistent team emptying Mrs B's bins, which was likely to be the cause of the problems.
19. The Council said it would allocate Mrs B's property to a consistent round in December 2019. The contractor would give the new crew instructions for Mrs B's collections, including a memo with photographs of where the bins are and how

they must be returned. The driver of the crew would be required to sign for the memo and the collections would continue to be monitored.

Mrs C's complaint

20. Mrs C complained to the Council in July 2019 that it had failed to return her general waste bin to the correct place following assisted collections. The Council issued a memo to the crew in July 2019, but the problem recurred, and Mrs C escalated the complaint to the next stage. The Council agreed to monitor the collections.
21. In August 2019 Mrs C complained to us. She said she had had to leave bin bags outside her house in the summer and had seen rats in the area. While there had been an initial improvement when the monitoring started, the problem had recurred.
22. In response, the Council told us it had monitored Mrs C's collections from August 2019. It found all the bins had been returned correctly except for three occasions, two of which were in October and November. It said the introduction of the new rounds probably caused those instances.

Mr and Mrs D's complaint

23. Mr and Mrs D live in a block of flats. They use large refuse bins which are shared between four flats and are kept outside the block. Mr D says that when the crew collects the bins, they pull them to a nearby car park about 100 yards away. They are emptied but the crew does not return the bins back to the block. Mr D says when they report this, the Council says the bins will be brought back in 24 hours, but this does not happen. Mr and Mrs D therefore have to pull the bins back from the car park. Mr D says this is inconvenient, difficult and frustrating.
24. Mr D told us the problem had been going on for a few years. There had been periods of improvement, but then it recurred. The local MP had also raised the issue, as he had received complaints from a number of residents.
25. Between January 2019 and April 2019 Mr and Mrs D reported the bins were not returned four times. They made a formal complaint. The Council apologised and said it had issued a memo to the crew instructing them to ensure the bins were returned correctly in future. A supervisor would also speak to the crew.
26. The following week, Mr D complained that the crew had not returned a recycling bin. He said it was a waste of time logging a bin not returned as no one came to return it. The Council said it had issued a further instruction to the crew not to leave the bins in the car park after collection. The manager would also review the CCTV footage from the collection vehicle.
27. The problems continued. Mr and Mrs D reported four more times when the bin was not returned. They complained to us in June 2019.
28. In response to our enquiries the Council accepted there had been problems. Altogether, from April 2018 to September 2019, Mr and Mrs D had reported the bin not returned 12 times. In addition, there had been five missed collections of garden waste. The Council had given instructions to the crew and monitored the collections.
29. During the monitoring period Mr and Mrs D reported the crew did not return the bins several times, but the monitoring had not found any problems. Having seen the records, we consider it likely this was because Mr or Mrs D had returned the bins themselves before the supervisor arrived. Mr and Mrs D have told us the problems are continuing.

Mr F's complaint

30. Mr F has a disability and has an assisted collection. He complained to the Council in February 2019 that the crews did not leave the bins in the agreed location. He said they left them in front of his garage door, where his wheelchair was located. This meant he could not access his property, or the garage door would knock over the bin which he was then not able to pick up. The Council wrote to the crew reminding them of the correct location for the bins. The problem persisted and Mr F complained to the Council again in April 2019. The Council monitored the collection in May, August and September. On one occasion the collection had not taken place and on another the bin had not been returned to the correct location.
31. In response to our enquiries, the Council said the crew that collects Mr F's bins was likely to change in October 2019. It would arrange for a supervisor to meet the collection team on site to ensure they were clear where to leave the bins. It agreed to monitor the service for a further four weeks. We therefore closed our case.
32. In November 2019, Mr F came back to us. He said the problems were continuing. Although Mr F has not raised a new complaint with the Council, we have exercised our discretion to investigate as it was a continuation of a previous problem that the Council had had an opportunity to respond to.

Missed garden and food waste collections

Mrs G's complaint

33. In May 2019 Mrs G complained to the Council that it had missed seven food waste collections so far that year. The Council apologised. It said it was possible Mrs G had reported missed collections before the crews had attended. In response to our draft report, Mrs G disputed this. She said she had only reported missed collections after 5pm or the following morning. The Council told Mrs G it had issued an instruction to the crews, though it had not kept the document. There was another missed collection the following week and Mrs G escalated her complaint to the next stage. The Council agreed to monitor the collections.
34. When the problem recurred, Mrs G contacted the Council. It said she would have to bring her complaint to us as it could not re-open it. The Council also said some of the missed collections were for Mrs G's mother's address next door. Mrs G told us she once reported a missed collection for her mother, but that did not form part of her complaint to us. She told us she had had to chase the Council on 16 separate occasions for her bin to be emptied.
35. The Council told us it had monitored Mrs G's collections since July 2019. On four occasions the bins had been behind a locked gate, on two occasions the collections had been carried out successfully, on two occasions in October and November there had been a problem.
36. The Council said Mrs G's house was near to the boundary between two rounds. A supervisor had reviewed the rounds and decided to move her collection into a different round which went past her property. After this Mrs G's collections appeared to improve until the new round schedule was introduced in October 2019. The Council had therefore continued periodically to monitor Mrs G's collections.

Mr H's complaint

37. Mr H complains the Council missed his garden waste collection and then failed to return twice despite chasing. In May 2019, Mr H's garden waste bin fell into the

back of the refuse lorry. The Council says this was because it was too heavy. Mr H disputes this, he says a crew member told him there was a problem with the truck and the problem had happened a few times that day.

38. As the bin and its permit sticker had been lost, new ones were ordered. The new bin was delivered before the permit sticker arrived in the post. Mr H left the bin out for collection, but the crew did not collect it because it did not have a permit sticker on it.
39. Mr H reported the missed collection and put his bin out again the following day. Mr H says a crew member told him they would return, but they did not. Mr H spoke to the Council again. He says it told him it would return to collect the bin, though there is no evidence of that in the Council's records. The bin was not collected and Mr H made a formal complaint. He said he had had to pay a gardener to remove the waste because he could not transport it in his car.
40. The Council called Mr H and offered him a second green bin. Mr H was dissatisfied and asked to escalate the complaint. He asked the Council to pay for the gardener's removal of the waste. In response the Council again offered to provide a second green bin. It said it could not refund him for engaging a private gardener as there were several household waste recycling centres where residents could dispose of waste for free. The Council said Mr H's bin had been too heavy, but this had not been properly recorded by the crew.
41. Mr H did not receive this response. When he again contacted the Council, it found it had used the wrong email address. Mr H made a new complaint. The Council replied on 11 July 2019. Mr H remained dissatisfied and asked to escalate his complaint to the next stage. The Council did not uphold his complaint. It said the terms of the subscription service meant it could not refund the subscription fee.
42. Mr H complained to us in August 2019. He said because he had been expecting the crew to return, he had not taken the waste to a recycling centre. He therefore had to pay the gardener to remove the waste before he could start work, as the bin was full. Mr H said the complaint process was atrocious as the Council had not responded to his points, just offered him a second green bin which was not necessary as his bin was not too heavy.
43. Mr H also told us the waste lorry had damaged his property twice, which was the subject of a separate insurance claim, but the Council had delayed responding to him about it.
44. In response to our enquiries, the Council said under the terms of the garden waste subscription service it was residents' responsibility to ensure a permit sticker was on the green bin. Green bins placed for collection without a permit sticker would not be emptied if they contained garden waste. This was to ensure crews did not empty bins from properties that had not subscribed. When a green bin was presented with garden waste in it and without a permit displayed, the crew had to log this on their in-cab device and not empty the bin.
45. The Council said, when Mr H reported the missed green bin collection, the crew did not return because they had recorded on the in-cab device there was no permit sticker. The Council therefore considered there had been no fault. It said Mr H had not reported any other missed collections since May 2019.

The Council's response

46. The Council told us it recognised there had been problems with its refuse collection service but said when monitoring was put in place it generally resulted

in prompt remedial action being taken. It noted its contractor collects garden waste from approximately 98,500 properties each week, the majority of these are completed as expected on the collection day.

47. The contractor had appointed three additional waste supervisors in June 2019 and introduced a new collection round schedule from October 2019. The new way of working would mean crews were working in the same areas and would work more closely with supervisors.
48. The implementation of new collection rounds meant that over 80% of the households in Trafford have had a change to the day their bin is collected, and all the collection crews have new rounds in different areas of the borough. The Council said it had expected there to be an increase in service issues as the new collection rounds were being implemented, as it took time for the collection crews to learn their new rounds and there had been some teething problems.
49. The contractor had also changed how it reminds crews about their assisted collection list. The team is given a paper copy by a supervisor when they collect their work packs in the morning. The assisted list is on the top of the folder and the team is reminded by the supervisor to ensure that they provide an assisted collection to the properties on the list. In addition to this, when specific issues arise, they are given a dedicated memo for that address, setting out what the issues are.
50. In response to our draft report, the Council said it had already identified areas of failure and was in a formal process with the contractor to review performance and address service delivery issues, with a view to significantly improving the level of service it provides to residents. It will assess other contract delivery options should it remain dissatisfied with the levels of service provided.

Conclusions

51. [Our focus report](#) on waste and recycling service complaints says we recognise that from time to time most people will have a problem with their waste collection. We do not normally investigate if there has been only one missed collection. However, the number of complaints we have received from Trafford residents clearly indicate there has been a wider problem.
52. It is clear from the complaints that there have been failings in the Council's service which amount to fault. The Council responded appropriately in giving instructions to the crews and then monitoring the service, but this did not prevent recurrence of the problems.
53. In Trafford, if a resident has continuing problems with a collection, they must use the Council's corporate complaints procedure. At Stage 1, the Council will generally issue instructions to the crews. If problems persist, at Stage 2 it will ask supervisors to monitor the collections. After that, complainants are referred to us. This means there is normally no stage for the outcome of the monitoring to be reviewed, or any changes introduced, before escalation to us. Whilst this is not fault, it may result in it taking longer to resolve problems than necessary.

Mr H's case

54. In Mr H's case, there was no fault when the crew did not collect the garden waste initially. This is because Mr H's garden waste permit sticker was not displayed. After Mr H reported the missed collection, the Council was aware he had a permit

and should have returned. It did not, which is fault. The Council sent its complaint response to the wrong email address, which was fault.

55. There was no fault in the Council's refusal to refund Mr H's garden waste subscription fee, as this is in line with its terms and conditions. In response to our draft report, Mr H said the Council's terms and conditions breached the Consumer Rights Act 2015. The Act enables a person to go to court if they are dissatisfied with the service provided.

Did the fault cause injustice?

56. We have considered whether the fault has caused injustice to the complainants. Missed collections and unreturned bins are annoying, frustrating and inconvenient. All the complainants have been put to unnecessary time and trouble reporting the matter. In particular, Mr and Mrs D's issues have been ongoing for a number of years, Mr F has been caused difficulty in accessing his property and Mrs G reported problems 16 times.
57. Mr H had to chase the Council after it used the wrong email address, but he has not been caused significant injustice. Mr H says there were three missed collections, as he says the Council promised him twice it would return to collect the waste. However, this amounts to only one week's missed garden waste collection so this is not a significant injustice. Mr H says he could not wait for the next collection as the bin was full, but it was his choice to pay a gardener to remove the waste when a free option was available.

Recommendations

58. The Council must 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*)
59. We welcome the service changes the Council has already made. In addition to the requirements set out above, the Council has agreed to take the following action to remedy the injustice identified in this report.
- Apologise to each of the complainants for the frustration and inconvenience caused by the collection problems.
 - Monitor their waste collections for twelve collections.
 - Give Mr F's crew photographs of where the bins are to be left and ask the crew driver to sign for these instructions
 - Report the results of the monitoring to the Ombudsman and to the complainants within a month of the twelfth collection. If the monitoring shows a need for further action, the report will explain what action the Council will take.
 - Pay Mr and Mrs D £150 to acknowledge injustice caused over a number of years
 - Pay Mrs B, Mrs C, Mr F and Mrs G £100 to acknowledge the time and trouble and difficulties they were caused
 - Review its missed collection report and complaints process with a view to introducing a step where results of supervisor monitoring can be assessed, or residents can talk to the supervisor about the problem, and the matter given a chance to be resolved before automatic escalation to us.

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- Ask the Overview and Scrutiny Committee to consider whether the recent changes to the waste collection service have brought about service improvements.

Decision

60. We have completed our investigation into these complaints. There was fault by the Council which caused injustice. The actions the Council has agreed to take remedy that injustice.