

Local Government
OMBUDSMAN

24 June 2011

Mr S Hughes
Chief Executive
Birmingham City Council
Council House
Victoria Square
BIRMINGHAM
B1 1BB

Dear Mr Hughes

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ending 31 March 2011. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number that the Advice Team forwarded to my office and decisions made on complaints about your council. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your authority to respond to written enquiries and the average response times by type of authority.

I want to take this opportunity to record my appreciation of the personal attention that you and the Director of Adult Social Care gave during the year to a complaint that has become protracted. I am conscious of the scale of the Council's operation and the pressures on your time. I am sure that citizens would be encouraged to know that you are prepared to pay attention to an individual matter. I hope to be able to close the complaint in the near future.

As Birmingham is the largest local authority in the country it is not surprising that we deal with more complaints about the Council than any other authority. The law allows me to discontinue enquiries and I will often do so when a council agrees to remedy the injustice caused to the person who has complained. Those decisions are described as local settlements. Last year there were 79 local settlements. I want to draw the Council's attention to four particular cases.

1. The disabled parents of a young child complained to me in February 2009 after the Council failed to implement the recommendations of an Independent Investigating Officer's (IIO) report for more than 2 years after it had agreed to do so. The original complaint made to the Council and upheld by the IIO included that it had:
 - failed to assess or assist the parents after the birth their child; wrongly closed their case stating, incorrectly, that they refused services;
 - failed to resolve disagreements between the Adults and Communities Directorate and the Children, Young People and Families Directorate;
 - failed to co-ordinate direct payments for the mother's own care with those for assisting with the care she was unable to provide for the child herself and operated two, separate financial packages;
 - based its decisions on finance and not on the family's needs.

The IIO's recommendations agreed by the Council included that: the two Directorates should in future work together in similar situations; direct payments to the parents for domiciliary care and child care should be back-dated; the mother should receive a single payment for the care she had been assessed as needing; direct payments for assisting with parenting should be backdated to the child's birth; staff in the Children, Young People and Families Directorate should be trained in disability issues and assessments; staff in the Adults and Communities Directorate should be trained in the effect of mental illness on a parent's ability to care for a child; there should be an urgent review of the approach to Direct Payments for disabled parents.

When my investigator made enquiries the Council said it disagreed with some of the recommendations. My investigator was concerned that the Council had offered a payment to meet the child's assessed need for the family to be assisted by a nanny based on £3 an hour, when the national minimum wage was £5.80 an hour. It had also based the payment on 5 hours a week less than the assessed need for almost three years.

When the parents left the area to be closer to family support the Council had still not co-ordinated payments or established a budget in the Children, Young People and Families Directorate to meet the needs of children who are not disabled but whose parents are. In addition to measures to remedy the injustice caused to the family, my investigator recommended that the Council should improve its systems so that other disabled parents did not experience similar problems.

I hope that the Council will assure itself that this has been done and that there are now clear and appropriate policies and procedures in place.

2. A teenager in the Council's care, and placed with foster carers out of the Council's area, complained that he was removed from his school and foster placement without proper consideration and notice. He was studying for 11 GCSEs and considered by his school to be capable of getting a university place. Having removed him, the Council found him an education placement where he could study only 4 GCSEs and only at foundation level. The teenager moved back to the area where he had been placed and the school is supporting him to take his GCSEs and A levels.

My investigator found that both the school and the foster parents had been willing to keep the

teenager if he was given the additional psychological support he clearly needed. The social worker had not communicated well with the foster parents and had not contacted the school before deciding to remove the teenager. The teenager was placed in a Council assessment unit for over five months and was not referred to mental health services until his GP did so despite a formal written request from his former therapist that he should be referred for assessment.

The teenager complained formally. The Council did not respond to that complaint for over a month, did not interview the teenager with his advocate before responding and did not inform him of his right to go to the next stage of the complaints process.

The Council agreed to pay the teenager £7,000, to support him in accommodation close to the school and to fund access to psychological support for him.

The case illustrates the serious personal consequences for a vulnerable young person of decisions made on inadequate information and gave rise to concern about how the Council is operating the very important safeguard of the statutory complaints process.

3. The third complaint I want to draw your attention to was from a mother who, with her son aged four, became homeless in November 2009. The Council provided temporary accommodation in a hostel and offered a property in March 2010. The woman accepted the property but did not move in because repairs were needed – reconnecting a radiator, providing a new handle with key and re-glazing the kitchen window, repairing a window hinge, and reconnecting a smoke alarm.

The woman telephoned the Council regularly to find out when the property would be ready. In July an officer inspected the repairs and noticed that there was no gas supply. As it would take 12 weeks for a gas supply to be connected a homelessness officer advised the woman about her options. There was a misunderstanding that led to her being offered and refusing a property on the other side of the City and the Council saying it had discharged its duty to her. After she asked for that decision to be reviewed and complained to me, in October the Council completed the repairs and re-offered her the property.

The Council told me that the repairs were delayed because it changed its contractor. Whatever the cause, a habitable property needing relatively minor repairs was left empty for seven months whilst the Council paid for the mother and her small child to live in a hostel. In addition to the adverse effects on the child this was not a good use of the Council's resources. No one in the Council 'got a grip' of the situation or tried to find ways for the woman to move in more quickly. I have no means of knowing whether this was an isolated incident or indicative of a wider malaise.

4. A couple living in a neighbouring area took in a child from the Council's area when her mother became acutely mentally ill. The Council did a 'Core Assessment' of the child and produced a 'Child In Need Plan'. The couple provided emotional and practical support to the child throughout this process. The mother retained parental responsibility and the child lives with the couple. The Council said this was a private fostering arrangement and refused to provide any financial support to the couple from when they took the child in to when the case was transferred to the neighbouring council (that did provide a discretionary allowance).

As a result of my enquiries the Council agreed to pay the couple £1,800 for the eleven months that the child lived with the couple before transferring to the neighbouring authority. My concern about this case is that the Council's refusal to provide financial support could have jeopardised an arrangement that gave a home, care, emotional and practical support to a young person. If the couple had not been able or willing to continue the child would have been badly affected and the Council would have incurred considerable costs.

Communicating decisions

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. My next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further transparency to our work.

Extended powers

During 2010/11 our powers were extended to deal with complaints in two significant areas.

In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. The increasing number of people who arrange and pay for their own social care now have the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 75 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

Our new powers coincided with the introduction of Treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

Assisting councils to improve

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. During 2010/11 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.


These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

Details of training opportunities are on our web site at www.lgo.org.uk/training-councils/

More details of our work over the year will be included in the 2010/11 Annual Report. This will be published on our website at the same time as the annual review letters for all councils (14 July).

If it would be helpful to your Council I should be pleased to arrange for me or a senior manager to meet and explain our work in greater detail.

Yours sincerely



Anne Seex
Local Government Ombudsman

For further information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Other	Planning & Development	Total
Formal/informal premature complaints	12	74	11	14	27	9	98	0	11	256
Advice given	10	17	4	10	8	3	29	6	7	94
Forwarded in investigative team (resubmitted)	0	12	2	3	13	3	39	0	8	80
Forwarded to investigative team (new)	31	19	7	36	12	8	50	3	6	172
Total	53	122	24	63	60	23	216	9	32	602

Investigative Team

Decisions	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
2010 / 2011	0	79	0	0	60	49	24	212

Adult social care decisions made from 1 Oct 2010*

	Not to initiate an investigation	Out of jurisdiction	To discontinue investigation, other	Total
2010 - 2011	5	2	2	9

*These decisions are not included in the main decisions table above. They use the new decision reasons from 1/10/10.

Provisional comparative response times 01/04/2010 to 31/03/20 11

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	98	29.2
2009 / 2010	86	32.7
2008 / 2009	147	33.3

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	65	23	12
Unitary authorities	59	28	13
Metropolitan authorities	64	19	17
County councils	66	17	17
London boroughs	64	30	6
National parks authorities	75	25	0

Response times adult social care 1/10/10 - 31/3/11

Response times adult social care 1/10/10 - 31/3/11	First enquiries	
	No of first Enquiries	Avg no of days to respond
2010/2011	5	44.0