

22 June 2012

Local Government  
**OMBUDSMAN**

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 ended 31 March 2012. 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 forwarded by the Advice Team to my office, and decisions made on complaints about your authority. The decision descriptions have been changed to more closely follow the wording in our legislation and to give greater precision. Our guidance on statistics provides further explanation ([see our website](#)).

The statistics also show the time taken by your authority to respond to written enquiries.

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. I will generally not continue an investigation when a council agrees there has been fault and agrees to remedy any injustice caused to the person. I want to draw the Council's attention to the issues highlighted in five such investigations.

1. One complaint involved a delay of over two years in completing an assessment of a young woman with significant learning disabilities. Her parents asked for the assessment because their increasing age and declining health affected their ability to care for her. The assessment began in 2009 and was not finished by March 2012 when my investigator decided not to continue her investigation. The Council agreed to apologise, finish the assessment, find a residential placement within 8 weeks, and pay the parents £3,000.

In 2008 I issued a report including a recommendation that the Council should commission an independent audit of a representative sample of adults with learning disabilities. Part of the audit was to look at whether there were adequate assessments. The Social Care & Health Scrutiny Committee received the report of the work and also set up its own members' review of Learning Disabilities services. That review resulted in a report – Better Outcomes for People with Learning Disabilities (the BOLD Report). When I checked on progress with my recommendations I learned the Lead Cabinet Member for Adults and

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Communities had asked for reports on how the assessment process and review processes could be improved.

I realise that much of that work was done in parallel with the failings found in this particular case. I also realise that general conclusions cannot be drawn from a single case. Nevertheless I am sure the Council will be concerned to note this instance and may want to satisfy itself that the systems for monitoring progress of assessments is robust.

2. Another complaint illustrated that a completed assessment may not result in a need being met. In spring 2009 the Council assessed a woman who had an illness affecting her balance and mobility and causing extreme dizziness so she cannot walk and cannot stand or sit without support to balance.

The assessment concluded that one of the services she needed was to promote social involvement. The woman asked to attend a day centre but the Council initially said she was eligible for £118 a week for personal care only. It then said 'community options' could meet her need for social involvement.

For two years the woman tried to get a place at a particular day centre. She made many complaints, involved an advocate, and took part in two mediation meetings before complaining to me. Throughout this time the Council argued that a day centre was not suitable and that her need could be met in other ways. At one point a worker provided information about yoga and tai chi.

The Community Support Service told her it could not refer her for a day centre place whilst various social workers said it could. Her social worker recorded the woman would be given a place if the Council took a 'person centred approach'.

My investigator suggested the Council should do a fresh assessment by a social worker with no previous involvement in the case. That assessment resulted in the Council providing a day centre place for two days a week. The Council also agreed to pay the woman £1,000.

3. The Council's own investigation of a complaint before it was made to me found some serious weaknesses in a child protection case. The complaint went to the Independent Review Panel stage of the statutory procedure. The Panel considered a report from an Independent Investigating Officer who had found that most parts were not upheld but some were and:
  - Social workers failed to attend two meetings (one being a Child Protection Conference). This happened because the Duty & Assessment social worker did not complete records, including the dates of the meetings, and the Care Management staff either did not read the case papers or failed to notice that a case conference had been arranged and did not check with their colleagues.
  - The report on the outcome of the child protection investigation was not given to the parents in advance of the child protection conference.
  - There were no records of any visits to children between 25 November when they were placed on a Child Protection Plan and 06 January.
  - The mother did not speak English and she did not get enough support to fully understand and contribute to the process.

The Independent Investigating Officer did a thorough investigation and produced an excellent report. The Council may wish to assess the extent to which it and my findings have fed into learning and improvement in practice.

4. A family complained about how the Council dealt with their housing application, housing benefits and council housing rent arrears. The family had complex needs, including physical disability and mental health problems

The Council's Social Care department provided good support to the family but the housing and benefits services did not recognise their complex needs. The man's physical disabilities meant he could not have managed in some of the temporary accommodation the Council offered and so the family refused them. They feared the Council would say it had met its duty to them by these offers. They accepted a property where he struggled with steps and stairs. After 5 months an occupational therapist did an assessment and said the property was unsuitable. After 6 months the Council moved the family but only because the owner of their temporary accommodation sold it. The new temporary accommodation was also unsuitable and they stayed there for 6 weeks.

The family's benefits changed often because of changes to rent, household, income and errors by the Council. The Benefits service issued 22 notices in 10 months - some on the same day. In 6 months the woman contacted the Council 82 times - on average, every day and a half. The notices were confusing and Council officers had to spend a lot of time providing understandable information to my investigator. Officers did not consider the impact of sending multiple, almost incomprehensible notices to someone with mental health problems.

It seemed the Council had not considered its duties under the Equality Act. It agreed to pay the family £2,300 for its failures in dealing with them.

5. In June 2011 I decided not to continue an investigation into how the Council dealt with a woman's housing application. Faults by the Council had caused her to miss offers of a permanent home that she would have accepted in November 2010. The Council had agreed it was at fault and to pay the woman £750, provide her and her young son with suitable housing near to his school, and consider a management move for her.

Unfortunately the woman then had cause to complain to me again about the way the Council dealt with the management move.

A Senior Officer Review Panel decided in August 2011 not to offer her a management move saying there was 'no just cause' for treating her differently to other people. It based that decision on an unbalanced and incomplete report. It ignored the fact that the 'just cause' was the Council's previous maladministration. If it had not been for that maladministration the woman would have had a permanent home in November 2010.

The Council also delayed in acting on a change in her circumstances but eventually offered her a permanent home in November 2011.

The second complaint led to a further payment of £375. I asked the Council to review the

causes of the delay and how the Panel reached such an ill-informed decision about the management move.

I understand the pressure on the Council's homelessness service. Some complaints indicate particular problems in dealing with people who present as homeless and are disabled or have medical needs. I have asked one of my senior investigators to discuss with your officers the issues arising in these complaints.

### ***Changes to our role***

I am also pleased to have this opportunity to update you on changes to our role. Since April 2010 we have been exercising jurisdiction over the internal management of schools on a pilot basis in 14 local authority areas. This was repealed in the Education Act 2011 and the power restored to the Secretary of State for Education. During the short period of the pilot we believe we have had a positive impact on the way in which schools handle complaints. This was endorsed by independent research commissioned by the Department for Education which is available [on their website](#).

Our jurisdiction will end in July 2012 and all complaints about internal school matters will be completed by 31 January 2013.

From April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman (IHO). We are working with the IHO to ensure a smooth transition that will include information for local authority officers and members.

### ***Supporting good local public administration***

We launched a new series of Focus reports during 2011/12 to develop our role in supporting good local public administration and service improvement. They draw on the learning arising from our casework in specific service areas. Subjects have included school admissions, children out of school, homelessness and use of bankruptcy powers. The reports describe good practice and highlight what can go wrong and the injustice caused. They also make recommendations on priority areas for improvement.

We were pleased that a survey of local government revenue officers provided positive feedback on the bankruptcy focus report. Some 85% said they found it useful.

In July 2011, we also published a report with the Centre for Public Scrutiny about how complaints can feed into local authority scrutiny and business planning arrangements.

We support local complaint resolution as the most speedy route to remedy. Our training programme on effective complaint handling is an important part of our work in this area. In 2011/12 we delivered 76 courses to councils, reaching 1,230 individual learners.

We have developed our course evaluation to measure the impact of our training more effectively. It has shown that 87% of learners gained new skills and knowledge to help them improve complaint-handling practice, 83% made changes to complaint-handling practice after training, and 73% said the improvements they made resulted in greater efficiency.

Further details of publications and training opportunities are on [our website](#).

### ***Publishing decisions***


Following consultation with councils, we are planning to launch an open publication scheme during the next year where we will be publishing on our website the final decision statements on all complaints. Making more information publicly available will increase our openness and transparency, and enhance our accountability.

Our aim is to provide a comprehensive picture of complaint decisions and reasons for councils and the public. This will help inform citizens about local services and create a new source of information on maladministration, service failure and injustice.

We will publish a copy of this annual review with those of all other English local authorities on our website on 12 July 2012. This will be the same day as publication of our Annual Report 2011/12 where you will find further information about our work.

We always welcome feedback from councils and would be pleased to receive your views. If it would be helpful, I should be pleased to arrange a meeting for myself or a senior manager to discuss our work in more detail.

Yours sincerely

A handwritten signature in black ink that reads "Anne Seex". The signature is written in a cursive style with a large initial 'A'.

Anne Seex  
Local Government Ombudsman

**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	Planning & Development	Total
Advice given	9	21	5	8	5	7	21	2	78
Premature complaints	19	103	8	7	38	8	61	12	256
Forwarded to Investigative team (resubmitted)	10	16	5	1	11	2	38	3	86
Forwarded to Investigative team (new)	25	22	6	53	8	7	39	8	168
<b>Total</b>	<b>63</b>	<b>162</b>	<b>24</b>	<b>69</b>	<b>62</b>	<b>24</b>	<b>159</b>	<b>25</b>	<b>588</b>

**Investigative team - Decisions**

Not investigated			Investigated			Report	Total
No power to investigate	No reason to use exceptional power to investigate	Investigation not justified & Other	Not enough evidence of fault	No or minor injustice & Other	Injustice remedied during enquiries		
15	21	59	66	32	73	0	266

	No of first enquiries	Avg no of days to respond
Response times to first enquiries	96	25.8