

22 June 2012

By email

Sir Howard Bernstein
Chief Executive
Manchester City Council

Dear Sir Howard

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.

From formal enquiries on 39 complaints this year, your average response time was 30.8 days, which is outside the 28 day target. The average time has slipped back after last year's improvement. I would ask the council to do all it can to ensure that enquiries by my office are responded to promptly and effectively. Replies on benefits and tax complaints, education and children's services and planning and development were received well within the target. I note that adult social care complaints have, on average, continued to take longer to respond to (47 days, slightly longer than last year) and response times in seven out of nine cases exceeded our target significantly.

Complaint Outcomes

We decided 76 complaints during the year.

Of those 76 decisions, 10 cases were considered to be outside my jurisdiction to investigate. In 13 other cases, I decided that there was no reason to investigate or investigation was not justified. In 19 cases investigated, I did not find enough evidence of fault. In another 34 cases, I decided to discontinue investigation where there was little or no injustice or injustice was remedied during enquiries.

Last year, I issued a further report in a case where the council had made a complainant bankrupt following non-payment of council tax. My predecessor had made criticisms of the council's lack of procedure for issuing bankruptcy proceedings; a point acknowledged and remedied. But he also

recommended that the council pay the complainant £1,000 compensation. The council declined to do so. It is rare for this office to issue a further report, as our recommendations are usually acted upon. I asked the council to reconsider its position and make the payment recommended. I was disappointed to note that the council again decided that it would not pay the compensation recommended. I exercised my discretion not to require the council to publish a statement because I did not consider that such a step would achieve the remedy recommended.

In most complaints where the injustice has been remedied following an investigation, the council has been willing to learn lessons and make procedural improvements as well as to accept the need for a just settlement to be provided to the complainant.

In 21 cases injustice was remedied following enquiries. I give details of two of these cases below.

In one case involving adult social care the council agreed to pay a complainant £7,500. A flawed assessment for a disabled facilities grant failed to take account of all the circumstances. The family went without the benefit of adaptations for 18 months longer than necessary. They had also been left in uncertainty as to whether a better scheme might have resulted if the assessment had been done properly at the outset. The council also failed to carry out a clear assessment of the complainant's needs and it delayed by seven months in finding a respite care provider. When a provider was identified, the council was not fully confident that it was appropriate for the identified needs. The investigation showed that the council failed to take a corporate approach on the various issues for over a year after the complainant first made a formal complaint. The council did not respond to the complaint and the opportunity was lost to resolve the matter at an early stage. As well as making the recommended payment, the council agreed to arrange independent mediation to help move forward.

In another complaint about education and children's services, the council failed to provide a school place or interim provision for two of the complainant's sons. I found that they had unnecessarily missed a term of education. The council's 15 school day timescale for the determination of an application to a Voluntary Aided school was a reasonable one. I could see no reason why the applications could not have been determined in order to allow the boys to start at the school by the middle of the autumn term, particularly if the council had forwarded the application before the end of the preceding school year. The fact that it failed to do so caused an initial delay.

The delay in forwarding the applications notwithstanding, I was not persuaded that there was any compelling reason why the school's governors could not have made and communicated their decisions by the middle of September. The complainant's children should have been offered places at the school or the complainant should have been given a formal refusal letter from or on behalf of the governors, setting out the reasons for their decision and her right to appeal against it. The failure to admit or properly refuse the applications until January 2012 caused four months of unreasonable delay.

As the council pointed out, the school's governors were responsible for the admission process, and part of the responsibility for any delay rested with them. But the question was whether the council contributed to the unreasonable four month delay. I found that the council's failure to follow up the applications with the school contributed significantly to the delay. The fact that the school offered places when asked to justify the decision to refuse the applications indicates that the decision may not have been defensible on legitimate grounds. Had the council challenged the school earlier in the process, it appeared probable to me that the matter would have been expedited, and the boys could have been in school earlier.

If the council had actively considered the issue of interim educational provision during the period, it is unlikely that I would have been critical of it. I regarded the failure to do so as unreasonable, in the circumstances of the case.

I concluded that the council's failure to take action to expedite the application and the failure to consider interim provision was unreasonable. Although they were not the only factors involved, I found that these failures contributed to the outcome whereby the complainant's sons unnecessarily lost a term of education. In recognition of this, the council agreed to make a payment to the complainant of £500 in respect of each child - a total of £1000 - to enable her to arrange extra tuition for them. I welcomed this, and the council's efforts to engage with the school to ensure that the delays which characterised these applications were not replicated in future.

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, appearing to read 'J Martin', with a horizontal line underneath.

Dr Jane Martin
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	5	3	2	2	5	3	5	2	27
Premature complaints	3	15	1	5	3	5	6	9	47
Forwarded to Investigative team (resubmitted)	0	2	0	2	2	1	2	0	9
Forwarded to Investigative team (new)	9	9	6	14	3	4	7	5	57
Total	17	29	9	23	13	13	20	16	140

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		
10	5	8	19	13	21	0	76

Response times to first enquiries	No of first enquiries	Avg no of days to respond
	39	30.8