

# Local Government & Social Care OMBUDSMAN

19 July 2023

*By email*

Ms Cadman OBE  
Chief Executive  
Birmingham City Council

Dear Ms Cadman OBE

## **Annual Review letter 2022-23**

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2023. The information offers valuable insight about your organisation's approach to complaints. As always, I would encourage you to consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to encourage effective ownership and oversight of complaint outcomes, which offer such valuable opportunities to learn and improve.

The end of the reporting year, saw the retirement of Michael King, drawing his tenure as Local Government Ombudsman to a close. I was delighted to be appointed to the role of Interim Ombudsman in April and look forward to working with you and colleagues across the local government sector in the coming months. I will be building on the strong foundations already in place and will continue to focus on promoting improvement through our work.

## **Complaint statistics**

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

**Complaints upheld** - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic.

Over the past two years, we have reviewed our processes to ensure we do the most we can with the resources we have. One outcome is that we are more selective about the complaints we look at in detail, prioritising where it is in the public interest to investigate. While providing a more sustainable way for us to work, it has meant that changes in uphold rates this year are not solely down to the nature of the cases coming to us. We are less likely to carry out investigations on 'borderline' issues, so we are naturally finding a higher proportion of fault overall.

Our average uphold rate for all investigations has increased this year and you may find that your organisation's uphold rate is higher than previous years. This means that comparing uphold rates

with previous years carries a note of caution. Therefore, I recommend comparing this statistic with that of similar organisations, rather than previous years, to better understand your organisation's performance.

**Compliance with recommendations** - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations.

Failure to comply is rare and a compliance rate below 100% is a cause for concern.

**Satisfactory remedy provided by the authority** - In these cases, the organisation upheld the complaint and we were satisfied with how it offered to put things right. We encourage the early resolution of complaints and credit organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 26 July 2023. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

### **Your organisation's performance**

During the year we issued four public reports about your Council.

It is very disappointing that, having highlighted our ongoing concerns with waste collections in the city for several years, problems still persist. [Our investigation](#) found that, despite extensive periods of monitoring and assurances that the service would improve, the Council was still not routinely returning three complainants' bins in line with its assisted collection service. We were concerned the issue not only affected those that brought the complaint but was indicative of the service being provided to many residents registered for assisted collection across the city.

We recommended the Council apologise and pay each complainant £200 in recognition of the frustration the lack of service had caused. We also recommended the Council review its waste collection monitoring arrangements to ensure they are robust and effective in identifying and resolving problems.

The Council responded positively to our report and complied with our recommendations. While we welcome the Council's responsiveness, we are concerned that the significant systemic issues with the Council's waste collection service were ongoing throughout the year.

A [second public report](#) investigated the Council's role in funding a care home placement. Our investigation found that, although there were no available care home placements within the Council's usual cost framework, the Council wrongly required the complainant to pay a third party top up fee. We also found the Council failed to provide sufficient information about top up fees and incorrectly treated the fees as a private matter between the care home and the complainant.

We asked the Council to apologise and refund the top up fees to the complainant. We asked it to provide reminders and training to relevant staff of the importance of keeping clear records to show what placements have been offered and why a placement is considered suitable.

It is disappointing the Council challenged the scope of our investigation and our recommendations when we issued the draft report. It then failed to formally notify us of the decision to accept our recommendations before the final report was issued. However, I am pleased to note the Council has since implemented our recommendations in full and we were able to confirm satisfaction with the actions taken.

The [third public report](#) issued found the Council had failed to provide suitable temporary accommodation to a complainant since 2014. The complainant uses a wheelchair and could not access the property safely and with dignity. We also found unacceptable delays conducting statutory reviews of homelessness decisions.

In addition to a personal remedy for the complainant, the Council agreed to several service improvements, including providing clearer advice to homeless applicants on the right to appeal to court if the Council misses review deadlines. I welcome the Council's acceptance of our recommendations and note the report was considered by the Audit Committee in January 2023.

The [final report](#) issued related to the Council's respite services for disabled children. Our investigation found the Council and Birmingham Children's Trust were advising parents to contact this office to appeal respite provision, instead of using the statutory Children's Complaints Procedure. During the investigation, we found 27 other families had been wrongly told to approach this organisation, before there had been any consideration of the issues via the statutory complaints process.

We asked the Council to apologise to the complainant, explain why and how it reached its decision on respite in her case and make a payment to remedy the time and trouble and uncertainty caused. We also asked it to amend its complaints policy and appeals process to ensure those who raise complaints about children's services can access the statutory complaints procedure, and to advise respite appellants that if they were unhappy with the outcome they can complain to the Council under the statutory procedure. We are pleased to note the Council agreed to our recommendations.

It is disappointing that your Council failed to comply with our recommendations in three cases this year. There was also evidence of late compliance with agreed recommendations with delay noted in more than a fifth of cases. It is especially disappointing to report this given we have raised the same concerns for four consecutive years.

Some of the delays related to policy changes or reviews. I encourage the Council to engage in discussion at the draft decision stage of our process if the timescales suggested for service improvement recommendations are not achievable or realistic. We are always mindful that while there remain flaws in policies or procedures, there is the continued risk others may be likewise affected so we will not allow indeterminate timescales. But, if the timescales we propose are not achievable, the Council needs to explain why this is the case before a decision is finalised.

Disappointingly, we have also seen delays in apologies being given and payments being made. Both should be straightforward to administer but we have seen examples of complainants having to wait several months. This causes further unnecessary frustration to complainants.

During the year, we have also raised concerns about several housing complaints where financial remedies have been agreed at the draft decision stage of our process. Following the final decision being issued, the Council has informed us about rent arrears and requested payments are offset against these. We will consider the individual circumstances of the case where we are informed of arrears and may agree to offsetting. But we will only consider such requests if they are raised with us before final decisions are issued.

Although responses to our investigation enquiries have generally been timely, we have had a number of poor and inadequate responses. In a case relating to Highways, a large number of documents were provided but many weren't named to indicate what they contained. The Council also failed to provide answers to the specific questions we had asked it. We have also received incomplete enquiry responses in a number of Housing cases. Incomplete responses impact on our ability to progress our investigations and causes further frustration to complainants.

On a more positive note, we have welcomed your willingness, and that of other senior staff, to engage positively with us about our concerns and to consider ways to drive improvements. One of my Assistant Ombudsmen has been in contact with the Director of Children's Services and Commissioner tasked with overseeing improvements in the Special Educational Needs & Disabilities service within the Council and was invited to speak at an Improvement Board meeting during the year. We welcome this opportunity to discuss how the learning from our complaints can contribute to the improvement journey.

I am encouraged by the actions you are taking and the commitment and motivation to improve. We recognise and understand systemic and cultural change takes time to address and embed. We will continue to meet regularly and engage with relevant officers to track progress.

### **Supporting complaint and service improvement**

I know that complaints offer organisations a rich source of intelligence and insight that has the potential to be transformational. These insights can indicate a problem with a specific area of service delivery or, more broadly, provide a perspective on an organisation's culture and ability to learn. To realise the potential complaints have to support service improvements, organisations need to have the fundamentals of complaint handling in place. To support you to do so, we have continued our work with the Housing Ombudsman Service to develop a joint complaint handling code that will provide a standard for organisations to work to. We will consult on the code and its implications prior to launch and will be in touch with further details.

In addition, our successful training programme includes practical interactive workshops that help participants develop their complaint handling skills. We can also offer tailored support and bespoke training to target specific issues your organisation might have identified. We delivered 105 online workshops during the year, reaching more than 1350 people. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training) or get in touch at [training@lgo.org.uk](mailto:training@lgo.org.uk).

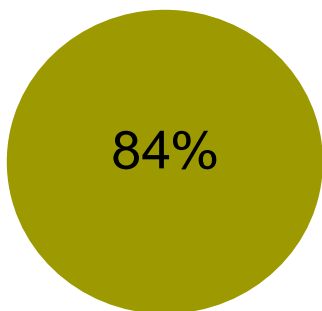
We were pleased to deliver an online complaint handling course to your staff during the year. I welcome your Council's investment in good complaint handling training and trust the course was useful to you.

Yours sincerely,

A handwritten signature in blue ink that reads "P. Najsarek". The signature is written in a cursive style with a large initial 'P'.

Paul Najsarek  
Interim Local Government and Social Care Ombudsman  
Interim Chair, Commission for Local Administration in England

### Complaints upheld



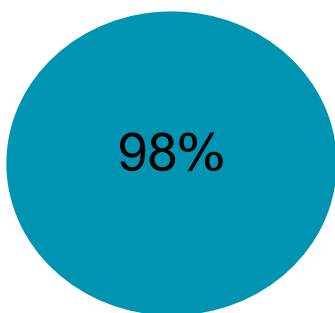
**84%** of complaints we investigated were upheld.

This compares to an average of **77%** in similar organisations.

**128**  
upheld decisions

Statistics are based on a total of **153** investigations for the period between 1 April 2022 to 31 March 2023

### Compliance with Ombudsman recommendations



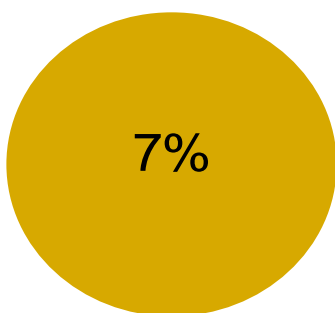
In **98%** of cases we were satisfied the organisation had successfully implemented our recommendations.

This compares to an average of **99%** in similar organisations.

Statistics are based on a total of **122** compliance outcomes for the period between 1 April 2022 to 31 March 2023

- Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

### Satisfactory remedy provided by the organisation



In **7%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **10%** in similar organisations.

**9**  
satisfactory remedy decisions

Statistics are based on a total of **128** upheld decisions for the period between 1 April 2022 to 31 March 2023