

Legal Services, Law & Governance
7 Newington Barrow Way
London
N7 7EP

Report of: Interim Director of Law & Governance and Monitoring Officer

Meeting of: Executive

Date: 22 June 2023

Ward(s): N/A

Subject: Report in Public by the Local Government & Social Care Ombudsman (LGSCO): Investigation into Stage 2 of the Corporate Complaints Procedure

1. Synopsis

- 1.1. On 2 May 2023, the Local Government & Social Care Ombudsman (LGSCO) wrote to the Council's Chief Executive to confirm that after consideration of a complaint they had received about the council's corporate complaints procedure, the LGSCO had decided to issue their findings as a public report.
- 1.2. In accordance with the Local Government Act 1974, there is a requirement for the public interest report to be considered in full by the Council's Executive.
- 1.3. The [LGSCO's public interest report](#) was published on 8 June 2023.

2. Recommendations

- 2.1. It is recommended that the Executive notes the following:
 - (a) The contents of this report and the LGSCO's public report dated 2 May 2023 and the recommendations made by the LGSCO, as set out in **Appendix 1**;

- (b) The requirement for the public report to be considered in full by the Executive in accordance with the Local Government Act 1974;
- (c) Note the agreed remedial actions already taken by officers in response to the LGSCO's recommendations (see paragraph 3.6 below).
- (d) Note and approve the proposal to progress the completion of those agreed remedial actions which are yet to be completed by officers (see paragraph 3.6 below).

3. Background

- 3.1. During the course of another investigation, the LGSCO became aware that the Council had a significant backlog of complaints waiting for investigation at stage two of its corporate complaints' procedure. 44 people had open stage two complaints and had been waiting longer than the Council's policy of 20 working days. 23 of the 44 have been waiting between six months and one year. The LGSCO held that these delays were likely to have caused frustration and uncertainty and, in some cases, meant the substantive issues complained about remained unresolved.
- 3.2. This report presents the Public Report dated 8 June 2023 issued by the LGSCO upon conclusion of its investigation (**Appendix 1**). The Report details: the background to the complaint, how the LGSCO considered its Report; what they found; their conclusions and recommendations.
- 3.3. The LGSCO recognises in the Report that Councils have seen unprecedented pressure in the past decade. Budget cuts, increasing demand for adult social care and special educational needs support and the COVID-19 pandemic have all created a challenging environment in which to operate. This has inevitably led to increased complaints.
- 3.4. The Council's published policy says it will investigate and respond to stage two complaints within 20 working days. The LGSCO Report covers the period from September 2020 to September 2022. Over those two years, 189 people made a stage two complaint. 157 received the Council's response to their complaint late; on average they waited four months. Many of those people waited significantly longer. This is evidenced by the average wait time of eight and a half months for the 26 people who complained in September 2021.
- 3.5. The LGSCO has made a finding of fault causing injustice on the basis of this performance and has made the following recommendations to the council:

- a) To consider the Report and confirm within 3 months the action it has taken or proposes to take, including consideration of the report by the Executive in accordance with the Local Government Act 1974.
- b) To remedy the injustice caused by the faults and to prevent them from recurring, the Council has agreed:
 - i. within one month: to write to each of the 44 people identified by the Council who have open stage two complaints to apologise and explain steps taken in mitigation;
 - ii. within two months: write to the LGSCO to update on the backlog of stage two complaints

3.6 At the time of writing, the following work is currently underway with a view to completing the LGSCO's recommendations:

- a) A letter of apology has been sent to the 44 identified complainants.
- b) All 44 complainants have received their determination.
- c) All backlogs were cleared on 16 May 2023.
- d) Section 30 of the Local Government Act 1974 requires the Council to place two public notices in two local newspapers and/or newspaper websites. within two weeks of the LGSCO's publication of the public interest report. Notices have been published during the week commencing **12 June 2023** in two local newspapers,.

Copies of the Report are also available at the Town Hall and on the council's website.

4. Implications

4.1. Financial Implications

Section 3.4 identifies the steps the Council undertook to address the backlog of complaints.

The 44 identified complainants were offered a total of £16,218 compensation of which, £10,814 has been paid.

The Council allocated growth into the 2023/24 budget of £350,000 to Complaints to provide continued additional staffing resource. This is included in the gross expenditure budget of £530,217.

4.2. Legal Implications

The LGSCO investigates complaints about maladministration and service failure. In accordance with the Local Government Act 1974, there is a requirement for the

report to be considered in full by the Council's Executive. Where the LGSCO determines that a fault has caused an injustice, the LGSCO may suggest a remedy. The Council is required to consider the report and confirm the action it has taken or proposes to take in response to the LGSCO's report and recommendations.

4.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

There are no environmental implications as a result of this report.

4.4. **Residents Impact Assessment**

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

5. Conclusion and reasons for recommendations

- 5.1. In accordance with the Local Government Act 1974, there is a requirement for the public report to be considered by the Council's Executive.

Background papers: None

Final report clearance:

Authorised by: Marie Rosenthal

Interim Director of Law & Governance and Monitoring Officer

Date: 8 June 2023

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

**Investigation into a complaint about
Islington London Borough Council
(reference number: 22 007 259)**

2 May 2023

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.

Report summary

Corporate and other services

During the course of another investigation, we became aware the Council has a backlog of complaints waiting for investigation at stage two of its corporate complaints procedure. Currently, 44 people have open stage two complaints and have been waiting longer than the Council's policy of 20 working days for a response. 23 of the 44 have been waiting between six months and one year. The delays are likely to have caused frustration and uncertainty and, in some cases, mean the substantive issues complained about remain unresolved.

Finding

Fault found causing injustice and recommendations made.

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*)

In addition, to remedy the injustice caused by the faults identified in this report, and prevent them occurring again, the Council has agreed to take the following actions.

Within one month of the date of this report the Council will write to each of the 44 people it has identified to apologise for its delay responding to their stage two complaints. The apology will:

- explain they have been identified following an investigation by us into another case;
- set out the steps the Council has taken to reduce its stage two complaints backlog, including the steps it took following an earlier draft of this report; and
- include that, once they receive the stage two response, they have the right to complain to us if they remain dissatisfied with the Council's response to the substantive matter they complained about. It will say that if we choose to investigate the main issue they complain about, we can also consider the Council's complaints handling and any payments for delay it has already made.

Within three months of the date of this report the Council will update us on the backlog for stage two complaint responses and its timeliness.

The complaint

1. During the course of another investigation, we became aware the Council has a significant backlog of complaints waiting for investigation at stage two of its corporate complaints procedure. As a result, 44 people have open stage two complaints and have been waiting longer than the Council's policy of 20 working days.

Legal and administrative background

The Ombudsman's role and powers

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. We may investigate matters coming to our attention during an investigation, if we consider that a member of the public who has not complained may have suffered an injustice as a result. (*Local Government Act 1974, section 26D and 34E, as amended*)

The Council's corporate complaints procedure

4. The law sets out how councils should respond to complaints about certain issues. This includes adult social care and some children's social care issues as well as complaints about councillors. Other concerns, such as school transport, can be addressed using appeal processes. Most other services provided by councils can be complained about using a process typically called the corporate complaints procedure. These might include planning, environment, housing benefit, council tax, customer services and housing needs and support.
5. The Council's corporate complaints policy says it will respond to stage one complaints within 10 working days. This response is sent by the service area responsible for the issues complained about.
6. If the person remains dissatisfied, the Council's policy says the complaint will be considered at stage two. The Corporate Central Complaints Team will complete this on behalf of the Chief Executive. It will do this within 20 working days.

How we considered this report

7. We produced this report after examining relevant documents from the Council. We also considered our 'Guidance on Good Practice Remedies'.
8. We gave the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

What happened

9. During a previous investigation by us into anti-social behaviour (our case reference: 22 001 218), the Council told us it had a backlog of stage two corporate complaints. The complainant, Ms X, had asked for a stage two response in March 2022 and the Council said it would aim to start investigating her complaint in September 2022.
10. We found the Council at fault for its delay in beginning the investigation of Ms X's complaint. We also found it at fault for failing to keep Ms X appropriately informed about how long it would be before it would begin the stage two investigation.
11. We considered the complaint backlog may have caused an injustice to other members of the public and decided to investigate this further, using our powers under Section 26D of the Local Government Act 1974. We decided to open a separate investigation to consider whether a personal remedy to this wider group was appropriate for the injustice they suffered because of this fault. We investigated the period from September 2020 to September 2022 to gain a clear picture of the Council's stage two complaints handling.
12. The Council told us the following information:
 - As of February 2023, 44 people have been waiting over 20 working days for a stage two complaints response. Twelve of those people have been waiting between six and nine months and eleven have been waiting between nine months and one year.
 - In total, it received 189 stage two complaint requests between September 2020 and September 2022. Of those 189 complaints, over 80% were completed late. This equates to 157 complainants waiting longer than they should have. On average, those complainants waited four months for a stage two response.
 - The main cause of the backlog was the impact of COVID-19 and an increase in complaints about housing after the COVID-19 lockdowns eased. Complaint numbers dramatically increased in 2021 and although they have dropped since then, they remain significantly higher than they were before 2020.
 - It responded to stage two complaints received between September 2020 and February 2021 in just over 20 working days on average. It then saw a significant and sustained increase in the number of complaints. At its worst, it responded to the 26 complaints it received in September 2021 in an average of around eight and a half months.
 - People who complained at stage two between October 2021 and September 2022 waited on average almost five months.
 - Since October 2022, the wait time has substantially decreased, and it expected to clear the backlog to respond to new stage two complaints within the 20 working days timescale by the end of April 2023.
 - When it received a stage two request it sent an acknowledgement letter. If it had not begun investigation within four weeks, it sent a further update. It did not contact the complainant again until it began the investigation.
 - It prioritised complaints where the delay would cause the complainant harm.
 - It paid complainants at least £75 when they waited more than 20 working days for a response to their complaint. In total, it had paid £6,825 for the delays.

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13. We asked the Council what it had done to address the backlog. It told us the following:
- It hired one complaints officer in September 2021 and another in January 2022. In November 2022 it hired two more complaints officers.
 - In December 2022, it decided to bring in 10 temporary complaints officers to clear the backlog.
 - It hired a new complaints manager in July 2022, who had reviewed its complaints process with a focus on resolving complaints at stage one. It also developed a new way to monitor staff performance and quality and had introduced a system to track complaint progress.
 - After it received a previous draft of this report, it had commissioned an urgent comprehensive independent review of its complaints handling.
 - It also made numerous changes to its complaints procedures including creating an assessment team which was responsible for making early decisions on stage two complaints and creating a system to update complainants regularly while they are waiting for a stage two response.

Conclusions

14. Councils have seen unprecedented pressure in the past decade. Budget cuts, increasing demand for adult social care and special educational needs support and the COVID-19 pandemic have all created a challenging environment in which to operate. Many councils have had to make difficult decisions to continue providing the services they are duty-bound to offer.
15. Complaints have a key role in supporting councils to make the most of the resources they have. They provide a free, timely way for councils to gain feedback on the services they provide, driving improvements and increasing accountability.
16. The Council's published policy says it will investigate and respond to stage two complaints within 20 working days. This report covers the period from September 2020 to September 2022. Over those two years, 189 people made a stage two complaint. 157 received the Council's response to their complaint late; on average they waited four months. This was fault. Many of those people waited significantly longer. This is evidenced by the average wait time of eight and a half months for the 26 people who complained in September 2021.
17. Many of the 157 people received a payment of at least £75 from the Council to recognise the delay, funds which could have otherwise been used if the backlog had not developed to such an extent.
18. At present, 44 people have been waiting more than 20 working days for the Council to send them a stage two complaints response. Some of them have been waiting a very long time; 12 have already waited between six and nine months and 11 have waited between nine months and one year. This was also fault and is likely to have caused those complainants frustration and uncertainty. In some cases where the issue complained about is ongoing, the delay will prevent resolution and increase the person's injustice.

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19. In addition, we expect councils to keep complainants informed when there are delays in responding to complaints. On receipt of a stage two complaint request the Council sends an acknowledgement letter. If the Council has not begun its investigation within four weeks, the Council sends an update letter and then does not contact the complainant further until its investigation begins. For those complainants waiting the longest, this means they go many months without an update. This was not good administrative practice and was fault. The Council should be contacting the complainants at regular intervals with a meaningful update. This should include when it hopes to begin investigating. Its failure to do so is likely to cause the 44 complainants waiting for a stage two response further frustration and uncertainty.
 20. In September 2020, the start of the period we have investigated, the Council was still responding to complaints in around 20 working days. However, from early 2021, the Council received considerably more stage two complaints each month than it had previously. Many of these complaints were about housing and the initial increase in complaint numbers was likely linked to the end of the third national lockdown.
 21. The Council did not employ any additional complaints officers until it hired one in September 2021, by which time complainants could expect to receive a response eight and a half months later. The Council waited until January 2022 to hire another officer and did not have the new complaints manager in place until July 2022. That manager made some changes to the Council's complaints handling to reduce the backlog, including a new system to track complaint progress. However, the wait time and backlog remained significant and the Council did not hire any more officers until November 2022.
 22. This suggests the Council initially delayed taking action and when it did act, it did not do enough to address the issues. The stage two complaints backlog was allowed to develop without significant intervention. This failure of the Council to act sooner and sufficiently enough was fault.
 23. We welcome the efforts the Council has made to reduce the backlog and improve its complaints handling following a previous draft of this report. This includes temporarily hiring a further 10 complaints officers, arranging an independent review of its complaints processes and reviewing how it updates complainants who are awaiting a stage two investigation. It is positive the Council anticipates clearing the backlog and being able to respond to stage two complaints within 20 working days by the end of April 2023.
 24. Given the actions the Council has taken following our previous draft report, we have not made further recommendations to improve its practice. However, we have recommended the Council updates us on the backlog within three months of the date of this report to ensure its actions have been effective.

Recommendations

25. 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*). This will ensure Council leaders are aware of the fault we have identified and can consider what actions are needed.

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26. In addition, within one month of the date of this report, the Council will write to each of the 44 people it has identified to apologise for its delay responding to their stage two complaints. The apology will:
- explain they have been identified following an investigation by us into another case;
 - set out the steps the Council has taken to reduce its stage two complaints backlog, including the steps it took following an earlier draft of this report; and
 - include that, once they receive the stage two response, they have the right to complain to us if they remain dissatisfied with the Council's response to the substantive matter they complained about. It will say that if we choose to investigate the main issue they complain about, we can also consider the Council's complaints handling and any payments for delay it has already made.
27. Within three months of the date of this report, the Council will update us on the backlog for stage two responses and its timeliness.

Decision

28. We have completed our investigation and issued a public report. We have found fault and made recommendations to remedy the injustice those affected experienced and to improve Council services.