

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: Audit Committee

Report of: Mark Rogers, Chief Executive

Date of Meeting: 31 January 2017

Subject: The Local Government Ombudsman's Annual Review 2015/16

Wards Affected: All

1. Purpose of Report

- 1.1 Each year, the Local Government Ombudsman for England issues a review summarising her work as independent arbiter of complaints about local government administration.**
- 1.2 This is available at www.lgo.org.uk and copies have been provided to the Group Offices.**
- 1.3 This report highlights for Members the main issues dealt with by the Ombudsman, within the context of complaints involving Birmingham City Council.**

2. Recommendation

To receive this report concerning the Local Government Ombudsman's Annual Review for 2015/16.

3. Annual Review: Key Issues

3.1 Content

The Local Government Ombudsman issues an Annual Review about Local Government each year which provides her statistics for the enquiries and complaints she has received.

In addition, Dr Martin presents to Parliament her annual report which includes the accounts for her service, too. Of these two items, the annual review concentrates on enquiries, complaints and their resolution and is most closely allied to the Council's handling of Ombudsman matters.

This report includes general information about the LGO's performance during 2015/16 and specific information about the Council's Ombudsman complaints.

This is Dr Martin's final year as Local Government Ombudsman. Her tenure ends in January 2017. Her successor, Michael King, has been her deputy for some time.

3.2 Volume of Complaints

The Annual Review reveals that there were 19,702 complaints and enquiries to the Ombudsman last year, a fall from the previous year, when there were 20,286.

3.3 Volume of Complaints about Birmingham City Council

The number of complaints about Birmingham determined by the Local Government Ombudsman in 2015/16 was 527, a fall from 562 in 2014/15. But, in addition, the Housing Ombudsman investigates complaints against the Council and she determined 61 complaints during the year, resulting in a total of 588 Ombudsman determinations in 2015/16.

Further information about Housing Ombudsman matters appears at paragraph 4 below.

3.4 Subject of Complaints

The largest category of complaints dealt with by the Ombudsman's investigators was Education and Children's Services, at 18%, followed by Adult Care Services and Planning, both at 16% of all the complaints and enquiries received.

3.5 Subject of Complaints about Birmingham City Council

Birmingham has never followed the LGO's trend as complaints about Housing matters were traditionally our largest category. But the transfer of remit away from the LGO has affected this and Revenues and Benefits received the highest number of LGO enquiries.

Appendix 1 is provided by the LGO and gives two different forms of information. The first demonstrates the subject matter and numbers of complaints received and determined by the Ombudsman about Birmingham in 2015/16. However, it is misleading in that we will not have received the 523 referred to by the LGO, as some of these will have been enquiries which her staff advised on, without consulting us.

In addition, we would not include some complaints in the category the LGO has used – for instance, ASB complaints appear as ‘Environmental Services, Public Protection and Regulation’, because they may concern noise nuisance. We treat them as housing complaints as they are usually between tenants and will have been responded to by the Housing Service.

3.6 Outcomes

The second dataset in Appendix 1 provides the decisions made by the LGO during the year, together with the compliance rate. It should be noted that of these, the largest category is for complaints which the LGO referred back to the Council to resolve itself. At 264 cases, this is about 50% of the complaints they receive.

The LGO closed 104 cases after carrying out initial enquiries and undertook detailed investigations in 107 cases. Of these, 71 were upheld. As the LGO operates a triage procedure, only those cases considered to be the most serious are investigated in full. Others will have been returned to the Council at the assessment stage as premature complaints, or they will have been determined at this point, as the LGO’s initial enquiries reveal that she could not achieve anything further by undertaking a full investigation. The determination ‘Closed After Initial Enquiries’ can be misleading in that it may take a number of months and a lot of information from the Council for the LGO to reach this view.

3.7 Reports

The LGO issued 28 reports in 2015/16, 11 concerning Education and Children’s Services and 10 about Adult Social care.

None of these were against Birmingham and there are no current cases where the LGO has indicated that there could be a report this year.

3.8 Settlements

At Committee in January 2010, Members requested information about any local settlements made by the Council involving a payment of £10,000 or more.

Whilst the Ombudsman upheld 71 complaints in 2015/16, no complaint resulted in a local settlement of this magnitude.

The total cost of payments made as a result of upheld decisions this year was £13,320.40 – which includes the settlement of two Housing Ombudsman complaints as per 4. below. This was £11,000 less than in 2014/15. The sums paid in individual cases vary very widely - some have been resolved with a payment of just £100. The highest single settlement this year was for under £3,600. This was a complaint concerning the Homeless Service, which had failed to carry out a statutory overcrowding assessment. This resulted in the complainant and her family spending a year in unsuitable accommodation.

4. The Housing Ombudsman

In order to give Members a picture of all Ombudsman matters, I am including here an update about this service as the Housing Ombudsman's remit is quite wide-ranging, covering complaints concerning Landlord Services, Estate Management, Home Loss Payments, transfer applications outside the Housing Act 1996, Part 6 and complaints about property condition, repairs and improvements.

Denise Fowler, the Housing Ombudsman, has also issued an annual report this year. She notes that 16,166 complaints and enquiries have been dealt with by her service this year, an increase of 60 % since 2013, when her remit widened to include complaints about local authorities.

The Housing Ombudsman highlights the fact that her service works with landlords to try to resolve complaints without a formal determination, succeeding in 91% of cases they handle. 976 cases were determined formally in 2015/16.

The report strongly emphasises customer satisfaction, although the Housing Ombudsman states that cases currently joining the backlog of complaints to be investigated formally will mostly be determined within the next twelve months. This is much slower than the LGO.

The Housing Ombudsman enquired about 61 complaints against Birmingham in 2015/16, 43 of them were premature complaints which we resolved ourselves directly with the complainant. Of the remaining 18, the Housing Ombudsman found in the Council's favour in 11 cases, 4 were outside her jurisdiction and just 2 resulted in a financial settlement. These cases concerned delay in completing repairs and delay in communicating about repairs and the decant process with a tenant following a fire at her council house. The cost was relatively low, at £400 and £250 respectively. The majority of our complaints investigated by the Housing Ombudsman concern repairs, though there are some relating to landlord issues, such as anti-social behaviour.

The Housing Ombudsman has a different approach to the Local Government Ombudsman in that complainants must exhaust the Council's own complaints procedure. The LGO may intervene at any point if she considers the complaint to be serious enough to merit it. If still dissatisfied, the complainant must either wait eight weeks to complain to the Housing Ombudsman or ask a

‘Designated Person’ (a Councillor or MP usually) to help them to resolve their complaint. This makes the process slow in reaching the point where the Housing Ombudsman will investigate.

The Housing Ombudsman also differs from the LGO in that when she does investigate, she can order a landlord to take action or to make a payment if she finds against them. It is usual for the Housing Ombudsman to make recommendations or issue comments to assist in improving services.

5. Police and Crime Panels

The Police Reform and Social Responsibility Act 2011 established Police and Crime Commissioners, plus Police and Crime Panels. As the Police and Crime Commissioners perform the decision-making processes previously undertaken by Police Authorities, they are a ‘body in jurisdiction’ for the Local Government Ombudsman. Police and Crime Panels, insofar as they are a committee of a local authority, also fall within the Local Government Ombudsman’s jurisdiction for non-criminal matters.

I am pleased to advise that only one such complaint was considered by the Local Government Ombudsman in 2015/16. It was rejected as the Ombudsman found insufficient evidence of fault and personal injustice to merit an investigation.

6. Learning from Complaints as a route to Service Improvement

Members will be aware from the Learning from Complaints report to this Committee in March 2015 that a great deal of work is invested in resolving complaints whilst they are still within the Council’s internal complaints procedure and in learning from those complaints in order to improve services. Therefore, only the most serious of complaints reach either the LGO or the Housing Ombudsman. Everyone has the right to make a complaint to the Ombudsman and the LGO continues to criticise Councils which fail to make this clear to their citizens when they have exhausted their own complaints procedure. That does not apply in Birmingham as our Stage 3 letters include advice about how to pursue a complaint further with the appropriate Ombudsman.

Once the Ombudsman has determined a complaint there is also consideration about how services might learn from them to make improvements. Quarterly reports are analysed by the Housing Service and Revenues and Benefits, both are proactive in implementing changes.

Training on learning from Ombudsman complaints is given to various services – this year both Planning and Regeneration and Adult Social Care Officers have received training in how to use Ombudsman determinations to avoid future complaints.

In addition, the Assistant Chief Executive advises that the Corporate Leadership Team has been holding monthly performance boards since 2016

to get a better grip on performance across all services and key indicators of operational health. Twice a year, the performance board has a particular focus on an analysis of all forms of complaints and citizen feedback to pick up on trends and drive service improvement.

7. Legal and Resource Implications

No specific legal implications have been identified, but resources are committed by individual Directorates in resolving Ombudsman complaints.

8. Risk Management & Equality Impact Assessment Issues

No specific issues have been identified.

9. Compliance Issues

City Council policies, plans and strategies have been complied with in this report. Where failings have been highlighted by the Ombudsman, individual directorates have been advised when they may have been in breach of their own policies and asked to take action. This can result in new policies, or revision of current ones or retraining of staff.

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