

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: AUDIT COMMITTEE

Report of: Director of Street Scene, City Operations Directorate

Date of Meeting:

Subject: Ombudsman Public Interest Report concerning a complaint about assisted waste collection complaints

Wards Affected: All

1. Purpose of Report

- a) In December 2006, the Audit Committee endorsed a framework for informing and involving Members of the Council when the Local Government and Social Care Ombudsman issues a report.
- b) The aim of this report is to inform members about the Ombudsman's report, issued on 10 November 2022, regarding 3 assisted waste collection complaints.
- c) As the Ombudsman has found fault causing injustice and have made recommendations to remedy the injustice caused, it should be considered by this Committee on behalf of the City Council.

2. Recommendations

That the Audit Committee notes the Director of City Operation's response to the Local Government and Social Care Ombudsman's recommendations.

3. Background Information

- 3.1 A copy of the Local Government and Social Care Ombudsman's report dated 13 September 2022 is appended to this report. All Ombudsman reports are anonymous, so, whilst the events described are real, the names of those involved are not included.
- 3.2 The complainants are registered for assisted collections. The complainants all live in different areas of the city and their waste is collected by two different depots. The LGSCO have previously investigated complaints from all three complainants. The Council failed to demonstrate the action it was taking in response to the recommendations the LGSCO made were effective in resolving the issues identified. There remains evidence of significant systemic issues within the Council's waste department. These have been ongoing for several years. All these factors helped inform the LGSCO's decision to issue this report to further highlight the problems being experienced by these three complainants and many other residents in the city.
- 3.3 The essence of the complaint:
- The complainants are registered for assisted collections. They all complained the Council has repeatedly failed to correctly return their bins to the storage points after emptying them.

4. The Key Events

Mrs X's complaint

- 4.1 Mrs X complained that the collection crews had routinely failed to return her bin and left her neighbours' bins blocking her drive after emptying them since October 2020. On one occasion Mrs X reports more than 20 bins were left in front of her gate. On another occasion she reported that only one of her three bins was among the many left in front of her gate, so having moved her neighbours' bins away from her property she then had to search for her own bins.
- 4.2 The LGSCO upheld Mrs X's complaint and highlighted their disappointment with the Council's failure to resolve an issue it had been aware of for over a year. The Council apologised to Mrs X and paid her £200 to recognise the frustration and difficulties the repeated failure to return her own and her neighbours' bins to their respective properties has caused. The Council had set up formal monitoring to ensure Mrs X and her neighbours' bins were returned correctly to the collection points for their respective properties. As there were further issues within the monitoring period, the LGSCO recommended the monitoring be extended for a further eight weeks.
- 4.3 During this extended period of monitoring there were further occasions when Mrs X and her neighbours' bins were not returned properly. The LGSCO asked the Council to extend the monitoring again for a further four week period. Unfortunately, there were further problems with Mrs X's bins not being returned

properly and her neighbours' bins being left in her driveway. The Council suggested the problem was getting worse and offered to extend the monitoring again.

- 4.4 The LGSCO registered a new complaint as although the Council has carried out the monitoring they recommended, this has not resolved the problem. Mrs X and her neighbours' bins are still not routinely returned to the correct positions.
- 4.5 The Council states the monitoring involved an Assistant Service Manager (ASM) attending the property on the scheduled collection day to check and verify crew compliance. It considers the only possible explanation for the repeated failure to return Mrs X and her neighbours' bins correctly is poor staff performance and a continued failure to adhere to clear management instructions. It states a service manager will now need to take a more proactive role in ensuring the bins are returned correctly. This may include taking further action against the crew concerned in line with the Council's procedures. Such action is a matter for the Council to consider and take. But it is extremely concerning that despite being aware active monitoring is being conducted, the crew continues to act in this way.

Mrs Y's complaint

- 4.6 As there is no space for Mrs Y to leave her bins at the front door, she has always left her bins on the side access to her property, next to the pavement. Mrs Y says the Council had routinely collected her bins from and returned them to this point without problem for years. She complained that since February 2021 the Council had failed to collect her bins, which meant they did not get emptied, and when they were collected, it did not return the bins to her property.
- 4.7 The LGSCO upheld Mrs Y's complaint. While it is more usual for the Council to collect and return bins to the front of a resident's property, the LGSCO expect it to have regard to the individual circumstances. The Council had previously completed Mrs Y's assisted collections with the bins stored to the side, rather than the front of her property for many years and the LGSCO recommended it continue to do so.
- 4.8 The Council apologised to Mrs Y and paid her £100 to recognise the frustration and difficulties the repeated failure to return her bins to her property as part of the assisted collection service has caused.
- 4.9 In addition, the Council agreed to monitor Mrs Y's collections for eight weeks to ensure the assisted collections were carried out properly and the bins were returned to the collection point at the side of her property. This monitoring took place between 31 March and 19 May 2022.
- 4.10 According to the Council's records Mrs Y's bins were collected, emptied, and returned to her property correctly on each scheduled collection. Again, the Council states the monitoring was carried out by an ASM visiting the road on the scheduled day to check and verify the bins had been emptied and returned to the agreed storage point.

- 4.11 Mrs Y is concerned about the accuracy of the Council's records. She complained her bins were not returned correctly on 2, 12 and 19 May 2022. Mrs Y has also reported further problems in June 2022 and questions whether the crews deliberately do not return her bins correctly as she has made a complaint. She says she has not seen anyone monitoring her collections or position of the bins and questions how the problem could continue if there was effective monitoring.

Ms Z's complaint

- 4.12 In 2021 the LGSCO upheld Ms Z's complaint about repeated failures to return her bin to the front of her property with the pod correctly inserted and the lid closed. The Council apologised and agreed to arrange formal monitoring of Ms Z's collections between August and November 2021 to try and resolve the problem.
- 4.13 Ms Z complained that despite the monitoring the collection service had not improved. She has made further formal complaints to the Council and each time the Council confirmed her complaint had been passed to the depot manager who would remind the collection crews of their obligations. The Council also arranged a further period of monitoring from January to April 2022. In addition, in January 2022 the Council agreed to provide Ms Z with an assisted collection service.
- 4.14 This did not resolve the problems and Ms Z has continued to complain about failings in the assisted collection service. She is disappointed the Council sends her the same standard responses and gives the same assurances the crew will be spoken to and service will improve, but nothing changes. Ms Z does not consider it sufficient to apologise for the ongoing failings without addressing the problem. She asserts there are no repercussions for the collection crew members as the Council does not take the complaint seriously.
- 4.15 Ms Z is also concerned about the dismissive remarks made about her complaints in the Council's internal communication with the depot. When asked by the Council to speak to the crews and ensure the service improved, an officer from the depot responded:

"With everything that is going on in the world with death and slavery and starvation, they are bothered about a lid being left open, it is pathetic, I will put a note in the pigeon hole"

- 4.16 The Council's response to the LGSCO enquiries states there is no definitive explanation for the ongoing failure other than what appears to be poor crew performance. It states the officer's comments in the internal communication were "off the cuff" personal comments and do not represent the Council's policy. The Council suggests it is likely the officer believed their comments would only be seen internally and apologises for the remark and any distress caused to Ms Z.

- 4.17 The Council states it reactivated monitoring in May 2022 and will be in close contact with a depot service manager to check the progress. The Council also states this latest monitoring will endeavour to resolve the issue more successfully than the previous.

5.The Ombudsman's Findings; Report issued – Upheld: Maladministration and injustice under Section 31(2) of the Local Government Act 1974

- 5.1 The LGSCO is extremely disappointed that despite extensive periods of monitoring and assurances the service would improve the Council is still not routinely returning Mrs X, Mrs Y or Ms Z's bins in line with its assisted collection service. In the circumstances it is not surprising the complainants all perceive they are being targeted by the collection crews and that the failure to return their bins correctly is a deliberate act.
- 5.2 The LGSCO are concerned that these issues affect not only Mrs X, Mrs Y and Ms Z, but are indicative of the service being provided to many residents registered for assisted collections across the city. The LGSCO's last report on failings in the Council's waste collection service also concerned a failure to return bins to the designated storage points and a delay in resolving issues of staff performance. The LGSCO have received assurances that issues within the service would be robustly tackled, but the problems persist.
- 5.3 The LGSCO state it is clear that monitoring in its current format has been ineffective in identifying and resolving the issues and that more needs to be done to improve the service. It is not sufficient to simply record failings in service and extend monitoring. There are also concerns about the accuracy of the Council's records, particularly as monitoring visits can take place after the complainants' neighbours have returned their bins for them.
- 5.4 The LGSCO are concerned that collection crews appear to continue to ignore instructions despite knowing they are being monitored. This suggests either the instructions from service managers were not effectively conveyed or explicit enough. Or more worryingly, that collection crews are not concerned about what, if any, the consequences of disregarding these instructions would be. In either case, the LGSCO would expect the Council to take action to ensure it retains the ability to control the provision of its waste collection service.
- 5.5 As the Council has acknowledged there are issues of poor staff performance, the LGSCO would expect the Council to actively seek to raise performance standards. It is not an adequate response for the Council to simply blame its staff. The senior management team of the Council is ultimately responsible for the leadership and motivation of its employees and for the culture it creates. As such, the continued failure to address public concerns effectively is as much a matter of corporate leadership as it is of day-to-day service delivery.
- 5.6 Having identified fault the LGSCO must consider whether this has caused an injustice to the complainants. All of the complainants have experienced further frustration and disappointment with the ongoing failure to return their bins and the Council's inability to resolve the problem.

6. The Ombudsman's Recommendations

6.1 To remedy the injustice caused by the faults identified, the Council has agreed to complete the following:

- apologise to each of the complainants for the ongoing failings in service;
- pay Mrs X £200 to recognise the frustration and difficulties the fault identified above has caused her;
- pay Mrs Y £200 to recognise the frustration and difficulties the fault identified above has caused her;
- pay Ms Z £200 to recognise the frustration and difficulties the fault identified above has caused her;
- review its waste collection monitoring arrangements to ensure they are robust and effective in identifying and resolving any problems and in improving service levels. This review and its findings should be reported directly to the Chief Executive and Leader of the Council and should be considered by the most appropriate committee of elected members; and
- produce an action plan to identify ways of improving its staff performance. This should include a timeframe for any action. This action plan should be reported directly to the Chief Executive and Leader of the Council and should be considered by the most appropriate committee of elected members.

7. The Council's View

7.1 The Council accepted the Ombudsman's recommendations at the draft report stage.

7.2 The Council has subsequently carried out the following actions:

- The crews on the collection rounds will be maintained and not changed.
- Training has taken place with each crew member going through the importance of the service we provide.
- The vehicles used on these routes will be fitted with on board route maps containing information on assisted collections this started to be completed by January 2023
- The vehicles used will have 360 cameras so footage of the collections can be reviewed on a regular basis.
- The crews performance will be reviewed in the training room using the data collected following collections.
- The management team will receive monitoring training.
- The management team will be shadowed to ensure monitoring is carried out correctly.
- The roads identified will be monitored through the enquiry system to ensure no repeat issues are raised this is in place with weekly reviews.
- The Principal Operations Manager will ensure all these actions are completed and report to Senior Managers in the weekly operations meeting.

8. Legal and Resource Implications

The agreed payments will be made from an appropriate budget.

9. Risk Management & Equality Impact Assessment Issues

- 9.1 If the Service does not improve there will be an increase in Ombudsman's cases resulting in a loss in confidence in the City Council.

10. Compliance Issues

- 10.1 All missed collections are reviewed on a daily and weekly basis. Ombudsman cases are now being reviewed through Business Support to highlight any issues directly to the Service.

11. Recommendations

That the Audit Committee notes the actions being taken in response to the Local Government and Social Care Ombudsman's report.

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