

# **BIRMINGHAM CITY COUNCIL**

## **PUBLIC REPORT**

**Report to: Audit Committee**

**Report of: Dawn Baxendale, Chief Executive**

**Date of Meeting: 29 January 2019**

**Subject: The Local Government and Social Care Ombudsman's Annual Review 2017/18**

**Wards Affected: All**

### **1. Purpose of Report**

**1.1 Each year, the Local Government and Social Care Ombudsman for England issues a report summarising his work as independent arbiter of complaints about local government administration. A copy is available at each of the Group Offices**

**1.2 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 and Social Care Ombudsman's Annual Report for 2017/18.**

### **3. Annual Review: Key Issues**

#### **3.1 Content**

The Local Government and Social Care Ombudsman (LGSCO) issues an Annual Review letter to every English Council, providing his statistics for the enquiries and complaints he has received concerning that Council.

In addition, Mr King presents to Parliament his Annual Report. Of these two items, the annual review letter concentrates on enquiries, complaints and their resolution and is most closely allied to the Council's handling of Ombudsman matters. The Annual Report is more general, including accounts for the service, etc..

This report includes general information about the LGSCO's performance during 2017/18 and specific information about the Council's Ombudsman complaints.

#### **3.2 Volume of Complaints**

The Annual Review shows that there were 17,452 complaints and enquiries to the Ombudsman last year, compared to 16,863 in 2016/17.

#### **3.3 Volume of Complaints about Birmingham City Council**

The number of complaints about Birmingham determined by the LGSCO in 2017/18 was 455, a fall of just ten cases from 2016/17. But, in addition, the Housing Ombudsman investigates complaints against the Council and she determined 55 complaints during the year, resulting in a total of 510 Ombudsman determinations in 2017/18, a fall of 15 cases overall. The numbers do not fluctuate very greatly from year to year.

To give Members a complete picture of all contact with the two Ombudsmen, 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 LGSCO's investigators was Education and Children's Services, at 18%, followed by Adult Care Services at 16% and then Planning, Highways and Housing all at 12% of all the complaints and enquiries received.

#### **3.5 Subject of Complaints about Birmingham City Council**

Birmingham has never followed the LGSCO's trend as complaints about Housing matters were traditionally our largest category. That is true for 2017/18 at 102 cases, followed by Revenues and Benefits.

Appendix 1 is provided by the LGSCO 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 2017/18. However, it is misleading in that we will not have received the 455 referred to by the LGSCO, as some of these will have been enquiries which their staff advised on, without consulting us.

In addition, we would not include some complaints in the category the LGSCO has used – for instance, ASB complaints appear as ‘Environmental Services, Public Protection and Regulation’, because they may concern noise nuisance. But we usually find that they are housing complaints, because as they tend to be 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 LGSCO during the year. It should be noted that of these, the largest category is for complaints which the LGSCO referred back to the Council to resolve itself. At 221 cases, this is close to half of the complaints they receive.

The LGSCO closed 93 cases after carrying out initial enquiries and undertook detailed investigations in 72 cases. Of these, 43 were upheld. As the LGSCO 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, if the LGSCO's initial enquiries reveal that they 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 LGSCO to reach this view.

Compared to 2016/17, the LGSCO has undertaken fewer detailed investigations (there were 101 last year) and upheld fewer complaints, too – there were twenty more in 2016/17. The LGSCO has advised that he has had a backlog for most of the year and this may account for the drop in determinations, but it is always highly unpredictable.

### **3.7 Reports**

The LGO issued 42 reports in 2017/18, mostly about Education and Children’s Services, Adult Social Care and Housing.

None of these were against Birmingham, but the LGSCO has indicated that there could be a report this year. We last received a report four years ago, so there has been a lengthy period of resolving complaints locally.

### **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 43 complaints in 2017/18, no complaint resulted in a local settlement of this magnitude. We made 39 financial settlements during the year and the total compensation paid was £12,435 (including 9 cases determined by the Housing Ombudsman, which resulted in compensation.) This sum is less than half the cost in 2016/17, when 55 financial settlements cost us £27,619. Again, this is something that cannot be predicted from year to year.

The most expensive settlement of the year was £6,300 for a complaint concerning the handling of a housing benefit claim back in 2011. A failure to re-instate the claim promptly then contributed to the complainant's eviction from a Housing Association property. This could probably have been avoided, but the complainant became ill at this stage and did not act in his own best interests for a time. The Council offered him a property which he accepted, but by then he had been homeless for three years. The Ombudsman asked the Council to pay £4,500 to the complainant for the period of homelessness and distress due to the eviction and loss of his possessions and £1,800 to the Housing Association for the rent arrears resulting from the failure to re-instate the claim for housing benefit.

Revenues and Benefits take a pragmatic approach to resolving complaints. Having reviewed this thoroughly, they concluded that poor administration of housing benefit in 2011/12 had caused this complaint and by 2017, when it was determined, many improvements had been made. These included an eviction panel for our own tenants and strong liaison agreements with registered social landlords. The high level of compensation was due to the length of time involved. Most of the Revenues and Benefits complaints, where the Ombudsman finds against the Council, result in payments of £200 to £300, so this case was very unusual. The Council has not received an Ombudsman report about a revenues and benefits complaint since 1993, so they have a strong record of local settlements where a claim does go wrong.

### **4. The Housing Ombudsman**

In order to give Members a picture of all Ombudsman matters, I am including here an update about this service, too. 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.

David Connolly was the Interim Housing Ombudsman until August 2018. He issued an annual report and accounts for 2017/18 but has now been

succeeded by another interim post holder, Andrea Keenoy. The report notes that 14,445 complaints and enquiries were received by Housing Ombudsman Service (HOS) this year, a fall of 600 cases on the previous year.

The Interim Housing Ombudsman highlights the fact that the service works with landlords to try to resolve complaints without a formal determination. 5467 complaints were resolved locally while 1742 were determined formally by the HOS.

Some 43% of complaints to the Housing Ombudsman are about repairs, by far the largest category. For Birmingham, the vast majority of complaints received from the Housing Ombudsman concern repairs.

The service had hoped to reach the target of determining complaints within six months, but only reduced it from nine months to eight months in 2017/18. The delay in determination is the most common complaint against the HOS. This is not surprising as it is much slower than the LGSCO. Whilst it does not affect the Council, it must be very frustrating for complainants.

The Housing Ombudsman enquired about 55 complaints against Birmingham in 2017/18, 27 of them were premature complaints which we resolved ourselves directly with the complainant. Of the remaining 28, the Housing Ombudsman found in the Council's favour in 11 cases, 4 were outside her jurisdiction and 9 resulted in a financial settlement. The general theme of these cases was issues around repairs: delay in completing them, dissatisfaction with their extent or quality and missed appointments. Handling of complaints also featured. The cost of settlements was low, at £1485 for the nine settlements. They range from £450 down to £85. Five complaints were settled at £150 each.

The Housing Ombudsman has a different approach to the LGSCO in that complainants must exhaust the Council's own complaints procedure. The LGSCO may intervene at any point if he considers the complaint to be serious enough to merit it. But for Landlord Services, if still dissatisfied, the complainant must either wait eight weeks to complain to the Housing Ombudsman or ask a 'Designated Person' (a Councillor or an 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 LGSCO 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 there were no complaints against the Council about Police and Crime Panels in 2017/18.

## **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 LGSCO or the Housing Ombudsman.

Complaints dealt with internally are generally reported via the 'Your Views' procedure and this area falls within the portfolio of the Deputy Leader of the Council as part of her performance review and improvement remit. But to give a picture of what is being complained about at the 'pre-Ombudsman' stage, the Your Views team in Customer Services, has advised me that the common themes of complaints they receive are: disagreement with a policy, disagreement with the application of policy in relation to an individual and delay in processing. This applies to areas such as benefit complaints, decisions on planning applications and waste management.

Housing issues also attract high numbers of complaints which are resolved via Your Views. As with Ombudsman matters, repairs are the subject most complained about, particularly delay in attendance, expectation of what works would be carried out and follow-up appointments.

Services have taken steps to improve the information available on their websites so that the expectations of customers may be managed. An example of this is that the information available about the planning process advises people that there is no right to an appeal as a third party to a planning application. Wherever it is possible to learn from complaints, services are proactive in doing so.

Everyone has the right to make a complaint to either of the Ombudsmen. The LGSCO 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. I issue quarterly reports detailing new and determined complaints to help services track their ombudsman complaints. These are analysed by the Housing Service and Revenues and Benefits, both are proactive in implementing changes.

## **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.

**Dawn Baxendale**  
**Chief Executive**

**Contact officer: Miranda Freeman, Senior Liaison Management Officer, Legal Services**

**Telephone No: 303 2033**

**e-mail address: [Miranda.Freeman@birmingham.gov.uk](mailto:Miranda.Freeman@birmingham.gov.uk)**

**Attachments: Appendix 1 LGO Complaints and Decisions Table**