

Review of Stage Three Complaints 2016-17 Lewisham Council and Regenter

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The Independent Adjudicator (IA) deals with complaints at stage three of the Council's complaints process and provides a free, independent and impartial service. The IA considers complaints about the administrative actions of the Council and its partners, Lewisham Homes and Regenter. She cannot question what actions these organisations have taken simply because someone does not agree with them. But, if she finds something has gone wrong, such as poor service, service failure, delay or bad advice and that a person has suffered as a result, the IA aims to get it put right by recommending a suitable remedy.

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At a glance*

* Includes Lewisham Homes

82 complaints received –
down from 91 in 2015/16

41% investigations upheld –
up from 37% in 2015/16

24 recommendations to put things right

Significant changes on previous year (complaints received)

SEN



Repairs



Planning



Introduction

This report publishes the complaint statistics of the Independent Adjudicator (IA) for the London Borough of Lewisham and its partner, Regenter, for the year ending 31 March 2017. In publishing the statistics, available in a data table at the end of this report, I aim to highlight lessons learned about the authorities' performance and their complaint handling arrangements, so that these might then be fed back into service improvement.

I have written a separate report about Lewisham Homes, though the figures for all authorities are included and attached, and some crossover issues are mentioned.

The headline messages from this year's statistics are:

- I received 82 complaints – down from 91 last year – and comprising 55 about the Council and Regenter (a decrease of one) and 27 about Lewisham Homes (a decrease of eight).
- I upheld 41% of the complaints I investigated, up from 37% in 2015/16.

- The area most complained about was Customer Services (28 complaints).
- The biggest increase in complaints was in Resources and Regeneration (up from five to 11).

I know, however, that the numbers alone do not tell everything about the attitude towards complaints and how they are responded to.

Arguably, of more importance, is to understand the impact those complaints have on people, and to learn the lessons from those complaints to improve the experience for others.

In line with my previous practice, I publish information about the recommendations I make to put things right when people have suffered. I made 24 separate recommendations to remedy injustice. These recommendations include actions for the authorities to take to remedy injustice for individuals, and to prevent injustice for others by improving practice.

My investigations can also provide the authorities with the reassurance that they

have carried out a fair investigation of a complaint, and satisfactorily offered to put things right, before the person decided to come to me.

The IA is the final stage of the authorities' complaints process – the person affected must have gone through the other stages before coming to me for an independent review of the case. So, in relation to the many thousands of exchanges happening daily between the authorities and the people in their areas, the number of stage three complaints is a tiny proportion of those exchanges, and, indeed, of the number of complaints received (% of the xxx complaints and enquiries about the Council and its partners in 2016/17); however, each one represents a problem that was not put right locally, or an experience that drove the person to pursue their complaint with me. Attached to this report is a Digest of Cases giving examples of such problems and experiences.

Making a difference: remedying injustice

Experience suggests that the most effective and timely way to resolve a complaint is for it to be put right at the local level before the issue escalates to me.

However, my casework shows that a number of complaints are not resolved satisfactorily locally, leaving people to ask me for an independent review. I carried out 41 detailed investigations, and upheld 37% of these (15 in number).

I found fault in two planning complaints, two refuse/fly tipping complaints and two special educational needs (SEN) complaints. I upheld one complaint each in council tax, repairs, housing allocations, temporary accommodation, home improvement grants, building control, abandoned vehicles, adoption and the childminder register.

I class a complaint as upheld or partly upheld when I find some fault in the way the Council or Regenter has acted. This

includes complaints where these authorities have acknowledged fault in their local investigation and offered to take action to put it right, but the person still wanted an independent review by me.

Types of remedy

If I decide the Council or Regenter have acted with fault, and the fault caused an injustice, I will make recommendations to put things right to remedy the fault. My recommendations are designed to place people back in the position they were in before the fault happened.

So, for example, this year, I proposed that the Council's Building Control Officers should investigate, and take action on, an unauthorised conversion of one flat into two that was causing the complainant a nuisance; that Planning Officers should expedite enforcement action on an illegal women's hostel affecting the complainant's amenity, providing the complainant with plan of action, a tentative timescale for taking that action, and regular updates; and that

SEN Officers should ensure, as a matter of urgency, the return of a child to full time provision as soon as possible, noting that two years had been missed as a result of Council failings.

In many complaints, I will also recommend an apology if this has not already been given.

If the injustice cannot be remedied through a specific action, I may recommend a financial payment.

So, in one SEN complaint, I proposed the payment of £1000 where the impact of the Council's failings in responding to the child's special educational needs was particularly severe on the family; in another, I suggested £300; and, in an adoption case, where the Council had failed to explain clearly to the complainants their rights as potential adopters and the rights of the identified

child's foster carer, I felt that £9589.80 was due to cover costs that the complainants had unnecessarily incurred in getting ready for the adoption.

Improving services

I always consider whether the issues uncovered in an investigation may affect other local people in a similar manner, and whether I can make practical recommendations to avoid that happening. So, for example, this year, I recommended that the Council should:

- Tighten up its procedures for dealing with prior approval applications.
- Review and improve its procedures for dealing with home improvement grants.
- Take steps to ensure that its list of childminders on its website is always up to date.
- Amend its notice to remove and destroy a vehicle.

Complaint numbers and commentary

- Complaints about the Council and Regenter that were in my jurisdiction have gone down again this year from 42 to 37.
- The number of complaints about Resources and Regeneration went up by two (from five to seven), as did complaints about Regenter (from two to four).
- Children and Young People (CYP) complaints fell from eight to four.
- Customer Service complaints fell from 26 to 22.
- There were no complaints about Community Services that fell within my remit.

Though any increases are regrettable, I am not unduly concerned as the numbers are tiny, and they will invariably fluctuate from year to year. What I will say, however, is that I am most pleased with the decrease in CYP complaints – down from eight to four - and especially those about SEN (two).

The upheld rate for complaints has gone up this year – from 35 to 37 per cent - but I find no particular cause for this other than that it suggests that, rightly, the more complex cases are coming to me; the cases where there are serious failings; and the cases where those failings have had a significant impact on the complainant.

However, I bring the following to the attention of the Council and Regenter:

- In some complaints, there was no stage one or stage two response.
- In other complaints, these authorities had missed what I considered was obvious maladministration.
- In a number of complaints, I think that officers should have proposed a remedy, but they didn't.

All of the above justified my involvement, I believe, and, crucially, they justified an adverse finding. I hope to see a decrease in such findings, and, indeed, a decrease in the number of stage three complaints, with the introduction of the Council's new

complaints process and its much more robust approach.

Even before this approach was adopted, however, the number of stage three complaints fell again this year as I report. This is welcome given the significant changes in many Council services, mentioning, for example, the stricter priorities for responding to flytipping; and the introduction of a paid green waste service. That these changes might have resulted in complaints but did not is a positive sign, in my view.

Also, the decrease can be partly explained, I think, because, despite not proposing remedies in some complaints, officers did suggest them in others without any prompting by me, and I was, consequently, persuaded that there was no case for me to investigate.

So, for example, in a council tax complaint, officers gave an apology and offered to review what had gone wrong; and, in a complaint about a home improvement grant, the Council removed the charging order from the

complainant's property
and waived fees of £226.

In my view, these were
eminently responsive
remedies to the injustice
suffered.

Complaint handling: General

- The Council and Regenter generally met the five days timescale for responding to my enquiries, although there were exceptions and I was forced to chase.
- The replies to my enquiries were generally thorough, but in some instances, they lacked a chronology, or they lacked detail, or they were poorly written (as was the stage one and stage two response), and I felt that a meeting with officers was necessary to secure the information that I required to reach a view.
- In a number of cases, there was delay in implementing my proposed remedy, and this added to the complainant's sense of grievance (leading to an Ombudsman complaint on one occasion); it caused me time and trouble in chasing; and I was forced to seek the help of senior officers.

CYP

Last year, I reported serious concerns about CYP, not only in the way it handled complaints, but also in the way it dealt with SEN. I had continuing concerns this year:

- In a complaint about a care assessment, referred to me by the Local Government Ombudsman (LGO), I asked the service area why it had not been dealt with under the statutory process: this was something that the LGO asked too. In my view, the issues should have been investigated under that process: they were not for me or for the Corporate Complaints procedure.
- In a second complaint about a care assessment, I explained that the service area needed to be clear why the complainant wanted a stage three investigation before referring it to me; and that they could not simply skip stage three as they proposed, and refer the matter directly to the LGO, even if this was what the complainant wanted.

- In a third complaint about a care assessment, where there were inaccuracies in a report on the complainant's children and the assessments were poor, I felt that some matters should have been considered by Information Governance, and others should have been taken under the Children Act.
- In a complaint about education admissions, and referred to me by officers, I advised the service area that this type of complaint was not for me, but for the Office of the Schools Adjudicator and the LGO (who would also take the case if an appeal had been heard). I was concerned that the service area seemed not to know this.

In response to these issues, and to the concerns that I had identified previously in my annual review of 2015/16 including poor and late replies to my enquiries (which were continuing), senior managers asked to meet me. I was reassured that they were committed to better complaint reporting; better

complaint handling; a desire to understand where a complaint might sit – with Corporate Complaints or under the statutory process; and the continued reduction in SEN complaints, noting a willingness to settle such complaints and to suggest imaginative remedies.

eventual willingness to remedy the complaint (along with Lewisham Homes).

Temporary accommodation

In a complaint about temporary accommodation – a function that passed from the Council to Lewisham Homes in September 2016 – I found that valuable opportunities at stages one and two of the process had been missed by the Council to spot what had gone wrong and provide redress. More importantly, there were serious failings in responding to my enquiries, including delay; not providing sufficient information; the relevant officers failing to turn up to a meeting I had arranged to secure that information, so that I was forced to hold a second meeting; and, initially, a denial by the Council that it had any role whatsoever. I am highly critical of this, but I am pleased to report, that the Council showed an

My performance and comments

I have:

- Responded to 80% of all complaints about the Council and Regenter within 30 days, missing the target of 90% because, in eight cases, complaint handling by officers was poor; or the responses from these authorities were deficient; or further enquiries and meetings with officers were necessary; or the Council's computer system was down; or officers had asked me to hold despatch of my final decision letter. I hope that such issues will not reoccur this year.
- Had no decisions overturned on complaints referred to the LGO or Housing Ombudsman (HO).
- Met the Housing Ombudsman's representative to explain my role, as well as to understand the workings of the HO and the remedies they use.
- Met even more complainants than in previous years.
- Urged officers to spot opportunities to

remedy a complaint and to discuss such remedies with me, or seek guidance from publications issued by the LGO and Housing Ombudsman.

- Encouraged well written complaint replies and apologies.
- Continued with my quarterly digest of cases to inform officers of the kinds of complaints I uphold, the remedies I suggest and the lessons that can be learned.
- Continued with my regular newsletter for senior managers to highlight any concerns and suggested service improvements.
- Met officers from Lewisham Homes to discuss complaint handling as well as my role: providing an interim complaint report for officers to consider; and offering training on dealing with complaints, good letter writing and remedies.
- Responded to the increasing pressures that officers face in their day to day work, and especially in responding to my enquiries, by trying to reach a view on the information available already, or asking for

simple facts, or organising a meeting where this is quicker and easier.

I have referred above to the Council's new complaints process. I hope that it will lead to more robust complaint handling throughout the authority, including spotting opportunities for remedies, and a reduction in the number of complaints that are escalated. I also hope to see timely and thorough complaint responses. I hope to see too the prompt implementation of my remedies, with regular updates to me and to the complainant.

I welcome this opportunity to give the Council and Regenter my reflections about the complaints I have dealt with over the past year. I hope that they find the information and assessment provided useful when seeking improvements to their services.

I would like to thank Rachael Phillips (Corporate Complaints Officer) and officers generally, for the help and support they have given me this year.