

Review of Stage Three Complaints 2017-18 Lewisham Council and Regenter

Linzi Banks Independent Adjudicator
July 2018

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

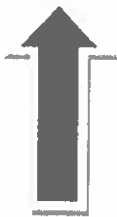
105 complaints received* – up from 82 in 2016/17

21% investigations upheld* – down from 41% in 2016/17

16 recommendations to put things right*

Significant changes on previous year (complaints received)

CT



Planning



CYP



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 2018. 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 in some instances* and attached, and some crossover issues are mentioned.

The headline messages from this year's statistics are:

- I received 105 complaints* – up from 82 last year – and comprising 74 about the Council and Regenter (an increase of 19) and 31 about Lewisham Homes (an increase of four).
- I upheld 21% of the complaints I investigated*, down from 41% in 2016/17.

- The area most complained about was Customer Services (55 complaints – an increase of 27 from last year).
- The biggest drop in complaints was in Children and Young People – down from 10 to one.

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 16 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; 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 49 detailed investigations, and upheld 18% of these (nine in number).

I found fault in two homelessness complaints; and I upheld one complaint each in council tax, planning, benefits, refuse collection, temporary accommodation, repairs and complaint administration.

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 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, in a complaint about the Nationality Checking Service, I proposed that officers should refund the £83 application checking fee, and pay compensation equal to the Home Office fees (and this avoided a formal investigation by me); in a complaint about delay in dealing with a benefits appeal, I proposed prompt referral to the First Tier Tribunal; and, in a complaint about the time taken to install a stopcock, I proposed installation as a matter of urgency.

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 a planning enforcement complaint, I proposed the payment of £250 straightaway, and additional compensation equal to the loss in value of the complainant's property (as determined by the District Valuer); in a joint complaint with Lewisham Homes, I suggested that £2700 compensation – to be split equally between both authorities – was fair and reasonable; and in a homelessness case, I felt that £200 was due to cover the stress and frustration that the complainant had experienced unnecessarily.

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:

- Work with Lewisham Homes to review contact, liaison and

- updating arrangements when a tenant is moved from temporary accommodation.
- Work with Lewisham Homes to determine what action, if any, can be taken to ensure that Council Tax is always aware of changes in a tenant's circumstances.
- Ensure that information given to one service is shared with another, where appropriate: noting that it is my view that contact with one part of the Council effectively constitutes contact with all other services that apply.
- Review the wording on its bills to advise council tax payers how long any exemption will last and when it will expire.
- Consider filing redacted objections to a planning application on the Planning Portal.
- Consider showing the number of objections to a planning application on the Planning Portal.
- Ensure that an officer not previously connected to a complaint investigates, and responds to, it.

- Provide, and adhere to, timescales for responding to all complaints.

Complaint numbers and commentary

Complaints about the Council and Regenter have gone up this year from 55 to 74.

The number of complaints about Customer Services went up by 27 (from 28 to 55), as did complaints about Resources and Regeneration (11 to 14), and Community Services (one to two).

Complaints about Children and Young People (CYP) fell from 10 to one, and complaints about Regenter fell from five to two.

Though the increase this year is notable; though it takes stage three complaints over a 100 for the first time; and, though any increase is 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 year on year decrease in CYP complaints.

I will also say that I have noted the following:

- A number of residents, in council tax complaints particularly, have told me that they are suffering financially; they cannot afford the tax; and, they often cannot meet their financial commitments. They come to me to ensure that they have been treated properly by the Council.
- Some residents in housing complaints have said that they are so desperate to be re-housed, they will do anything to achieve it, including using the complaints process.
- Quite a lot of residents have complained about the absence of services or changed priorities in, for example, fly tipping, tree management and refuse collection.
- More planning complaints are coming through, I think, because developers are building on all available plots, and residents feel aggrieved and badly affected.
- More complaints have involved both the Council and Lewisham Homes.
- Several complaints have been about more than one issue.
- Twenty complaints have been outside of my jurisdiction.

I will say too that the upheld rate for complaints has gone down dramatically this year – from 37 to 21 per cent - though I find no particular cause for this, other than that it might be because the Council is now more readily proposing remedies to complaints at the time that they come to me, thus avoiding a detailed investigation and an adverse finding.

I would recommend, however, that, if a remedy is considered appropriate in response to a stage three complaint, officers might look at settling it much earlier on, noting that, in some instances, there continues to be a hesitancy towards doing so.

- So, in a council tax complaint, officers offered to reassess the complainant's entitlement to council tax support; to bill her accordingly, and make an arrangement for the repayment of any monies owed; to cancel bailiff action; and to write off all

legal costs and bailiffs' fees.

- In a refuse complaint, they proposed monitoring the collection by way of photographing the empty bins; reporting any problems directly to the senior officer; swift re-collections; speaking to the crew and apologising for their actions; instructing the crew to take the bin to the truck for emptying; and offering a visit by a senior officer if the problems continued.
- And, in a complaint about the administration of a business rates account, the Council reviewed the account and determined that Business Rates Relief should be awarded and no rates were due.

coming to me; the cases where there are serious failings; and the cases where those failings have had a significant impact on the complainant.

The nine complaints that I upheld, or partly upheld, justified my involvement, I believe, and, crucially, they justified an adverse finding. I hope to see a continuing decrease in such findings, and, more importantly, a decrease in the number of stage three complaints. But, looking at these findings, they suggest that, rightly, the more complex cases are

Complaint handling:

General

The replies to my enquiries were generally thorough.

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.

In a number of cases, I was not told that the remedy had been implemented.

I report these two problems every year. I think that they occur because of the pressures under which officers are working, and not because of any breakdown in the complaint handling process, or because complaints are not taken seriously. I do stress, again, however, that timely replies to my enquiries; the timely implementation of remedies; and letting me know that my recommendations have been put into action, are essential: sparing me and the complainant the need to chase, and, possibly, avoiding a complaint to the Ombudsmen.

Planning

I had serious concerns about Planning this year: I often had to chase the replies to my enquiries; and, in one case, there was a breach of the IA protocol.

This is not to say that the replies - when received from Planning - were poor - quite the opposite; and, when I spoke to officers, they were most helpful and, in some cases, suggested what I considered was a positive way of addressing the complaint.

Notwithstanding, it seems to me that, because a complaint has already been through two stages before it reaches me, the information on it should be readily available to respond to any stage three; and, for this reason, I think that it should be possible to meet my five days target.

In the case where there was a breach of the IA protocol, I considered that the injustice caused by the Council's failing should be remedied by the payment of compensation equal to the loss in value of the complainant's home, with that loss assessed by the District Valuer. This is a long established Local

Government Ombudsman (LGO) remedy in planning complaints; it is a remedy that was totally appropriate here - where the Council had included an unenforceable condition to a planning permission affecting the complainant's amenity; and, it was subsequently approved by the LGO when the complaint went to him.

As for the breach of the IA protocol, this was addressed by senior officers to my satisfaction.

Stage one and two

In the replies to a number of complaints - at stage one and stage two - officers have explained that a lack of action, or, indeed, a failing are the result of the Council having fewer resources.

Although it is undoubtedly true that all authorities are facing challenging times, and it is not unreasonable, in my view, to manage residents' expectations about what is and what is not possible - indeed, I do so myself - I would not want to see this used as a blanket excuse for any failings.

Rather, I would expect those failings to be investigated; I would expect a remedy if appropriate – especially a practical remedy; and I would expect a service improvement if this was required, recognising, of course, that this must take into account the resources available.

Early on in the year, in some replies to planning complaints at stage two, I saw a lack of officer confidence in dealing with them, and some mistakes were made as a result. I suggested that officers might ask Planners for a brief oversight. I also offered to provide my insight. I am pleased to report that the replies are now much improved.

My performance and comments

I have:

- Responded to 91% of all complaints about the Council and Regenter within 30 days (target 90%).
- Had no decisions overturned on complaints referred to the LGO or Housing Ombudsman (HO).
- Met Lewisham Homes to discuss complaint handling, complaint prevention, and complaint training.
- Given advice on the appointment of the IA to work on Grenfell complaints at the Royal Borough of Kensington and Chelsea.
- Discussed the possibility of an IA role within a Housing Association in Surrey.
- Met with a small housing provider in North London to give advice on dealing with persistent complainants.
- 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.
- 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 mention the appointment of IAs elsewhere. I think that authorities are looking for more effective and imaginative ways of dealing with complaints. I also think that they want to ensure that complex complaint handling is done by someone with

local sympathies, but who also provides independence and accountability too. In addition, authorities, understandably, want to avoid the high cost of complaints going to the Ombudsmen.

In my experience, the IA role in Lewisham provides these benefits, and I think that this is why Kensington and Chelsea have used it as the model for their IA. The Housing Association is considering this model too. I am incredibly flattered that they approached me for my advice. I am also incredibly proud that I fill this role for the London Borough of Lewisham, for Lewisham Homes and for Regenter.

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 and Joel Fowler and officers generally, for the help and support they have given me this year.

REVIEW OF STAGE THREE COMPLAINTS 2017 – 2018 LEWISHAM COUNCIL AND REGENERATOR

Total cases received/open and determined: 1/4/17 – 31/3/18

TOTAL CASES RECEIVED 1/4/17– 31/3/18	NO. OF CASES CARRIED OVER FROM 2018/17	NO. OF CASES DETERMINED	NO. OF CASES WITHDRAWN/ OUTSIDE JURISDICTION	NO. OF CASES OPEN AS OF 31/3/18
*105	4	76	23	10

*Includes Lewisham Homes

Number of cases determined

TOTAL CASES DETERMINED	UPHELD IN FULL	UPHELD IN PART	NOT UPHELD
*76	5 (7%)	11 (14%)	60 (79%)

*Includes Lewisham Homes

Time taken by the IA to resolve : target 90% of cases to be resolved within 30 working days

30 days and below	31 - 50 days	More than 50 days
*69 (91%)	**5 (7%)	**2 (3%)

*Includes Lewisham Homes

**Five of these complaints were particularly complex and required significant investigation. In one complaint, the complainant asked for extra time to send in more information and this delayed the IA's decision; and, in another, the complainants wanted a meeting that took some time to organise.

Number of cases received: a comparison

The Council and Regenter	Lewisham Homes	Total cases received
74 (70%)	31 (30%)	*105

*Includes 23 complaints that were withdrawn or considered to be outside the IA's jurisdiction

Cases received by Council directorate/partner

Total number of stage three complaints against each directorate and each partner with the number of withdrawn/out of jurisdiction complaints in brackets (23)

Customer Services	Resources and Regeneration	Community Services	Children and Young People	Regenter	Lewisham Homes	TOTAL
55 (14)	14 (3)	2 (2)	1	2	31 (4)	105

Cases determined by subject

Number of complaints determined by subject – does not include those that were withdrawn/considered to be out of jurisdiction: number upheld in full or in part in brackets

	All Council/Partners*	Council and Regenter	Lewisham Homes
Council Tax	15 (1)	15 (1)	
Planning	7 (1)	7 (1)	
Housing allocations	6	6	
HOC	5 (2)	5 (2)	
Repairs	5 (1)		5 (1)
ASB	5 (2)		5 (2)

Major works	4 (1)		4
Benefits	4 (1)	4 (1)	
Leaseholders	3 (1)		3 (1)
Housing management	3 (1)		3 (1)
Temporary accommodation	2 (1)		2 (1)
Decent Homes	2 (1)		2 (1)
Refuse collection	2 (1)	2 (1)	
Flytipping	1	1	
Street lighting	1	1	
Temporary accommodation	1 (1)	1 (1)	
Leaseholders (RB3)	1	1	
Damp	1	1	
Damp	1		1
Repairs (RB3)	1 (1)	1 (1)	
Housing allocations	1		1
Property management	1		1
Property management	1	1	
Blue Badge	1	1	
Parking	1	1	
Complaint administration	1 (1)	1 (1)	
Total for all Council	76 (16)	49 (9)	27 (7)

**Some complaints raised more than one issue but were categorised according to the main issue*

Compensation awarded in 14 cases including those against Lewisham Homes*

Up to and including £100	£101 - £500	£501 and above	TOTAL – COUNCIL/RB3	TOTAL INC LH
	£1335	2543.85	£3878.85	£ 7528.70**

**Lewisham Homes – 8 cases - £3649.85*

***In two cases – one from 2016/17 - there was joint responsibility for the maladministration between the Council and Lewisham Homes: the IA, therefore, split the compensation 50:50, offsetting any money owed to the authorities (though the gross figures are shown). In one case against the Council, the IA proposed the immediate payment of compensation, together with a further £500 subject to the complainant agreeing to it in lieu of a practical remedy: the £500 is not reflected in the figures above. In a further case against the Council, a financial remedy could not be calculated pending an appeal: the complaint is not reflected in the figures.*

Local Government &
Social Care
OMBUDSMAN

18 July 2018

By email

Ian Thomas
Chief Executive
London Borough of Lewisham

Dear Ian Thomas,

Annual Review letter 2018

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

Complaint statistics

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

We were pleased and interested to hear about the changes you had or were planning to make to the way you deal with complaints when one of my Assistant Ombudsmen met with senior staff in December 2017 to discuss the annual letter we sent to you last year. Last

year's letter highlighted issues with delayed or poor responses and it was encouraging to hear action was being taken to address the issues.

We appreciate and recognise changes in practice and culture can take time to become fully embedded and incorporated. But, we do continue to have concerns about responses to enquiries and delay in complying with remedies. We have seen instances where the Council has refused to deal with complaints we consider premature or answer questions about why correspondence has been ignored. We have, on occasions had to repeatedly chase for a full response to the enquiries we have made. This is frustrating for all involved and is not a good use of either our resources or the Council's own.

We have also issued a report during the year about the Council's failure to complete assessments on a complainant's two children; failure to provide copies of care plans and a flawed decision to reduce the care package for both children. We recommended an apology, a financial payment and greater transparency in the way a Care Package Panel reaches its decisions. We also asked the Council to establish if one of the children had missed the opportunity for respite care, and if so, provide an additional remedy for this.

After the report was issued, we had to chase the Council on several occasions to provide evidence of compliance. This was unfortunate as it became clear action was being taken. It was just the necessary evidence to confirm this was not provided in a timely manner. Once we had received the information requested, we were able to confirm we were satisfied with the Council's actions and response to the report and formally close the case.

Future development of annual review letters

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new [corporate strategy](#) for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will be seeking views from councils on the future format of our annual letters early next year.

Supporting local scrutiny

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at www.lgo.org.uk/scrutiny. I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

Learning from complaints to improve services

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the [reports](#) and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists

work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

Complaint handling training

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit www.lgo.org.uk/training.

Yours sincerely,



Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Local Authority Report: London Borough of Lewisham
For the Period Ending: 31/03/2018

For further information on how to interpret our statistics, please visit our website:
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
17	26	2	21	18	7	41	11	3	146

Decisions made

Detailed Investigations					Total
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Uphold Rates
5	9	73	30	8	67%
					141

Notes

Our uphold rate is calculated in relation to the total number of detailed investigations. The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

Complaints Remedied

by LGO	12	Satisfactorily by Authority before LGO Involvement	4
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